

DM&E POWDER RIVER BASIN EXPANSION PROJECT

PUBLIC MEETING

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Rapid City, South Dakota

Thursday, November 2, 2000

P R O C E E D I N G S

(6:00 p.m.)

1
2
3 MS. NIXON: Okay. Welcome
4 everyone. My name is Bonnie Nixon, and my
5 role here tonight will be the facilitator.
6 Let me tell you a little bit about what that
7 means. I'm with a firm called Public Affairs
8 Management. Specifically, we facilitate
9 meetings, keep them running smoothly. That's
10 my role here tonight. I'm the -- kind of the
11 cop, the enforcer of the meeting ground
12 rules. I'm going to spend a moment just
13 going through the agenda and the meeting
14 ground rules so that we can get through the
15 meeting.

16 We have more than 90 speakers
17 signed up tonight, so we will be here a long
18 time. That's the reason I really need to
19 walk through the ground rules on how the
20 meeting is going to proceed. The purpose of
21 tonight's meeting is to describe the agency
22 roles in reviewing the proposed Dakota,

1 Minnesota and Eastern rail construction
2 project.

3 We're also here to provide an
4 overview of the project and describe the
5 preliminary results of the environmental
6 review. I think those of you know that a
7 Draft Environmental Impact Statement was
8 prepared, and that's the document that we'll
9 be discussing; and ideally, we would like you
10 to be discussing, as well, and providing your
11 input on them.

12 Finally, and most importantly,
13 we're here to receive public comments from
14 you. The agenda for tonight is for -- I'm
15 actually just really going to be introducing
16 our first speaker, and then as they move down
17 the line -- and their presentations are quite
18 brief. They're going to just be introducing
19 their agency and briefly stating what the
20 role of the agency is. Then we'll have a
21 brief review on the environmental reports.
22 So we expect the presentation to take

1 about 20 to 30 minutes.

2 So we would ask your patience
3 during that time, to hold all comments. We
4 will not be taking any questions. You've
5 been given an orange question card. Please
6 fill those out. You can drop them in the
7 box. Time permitting, which, to be perfectly
8 honest with you, I'm not sure time will be
9 permitting, but if there are some questions
10 from a process perspective, like when is the
11 comment deadline? That's January 5th.

12 All of that information is in your
13 materials. But if there are very direct,
14 straightforward questions that we can just
15 integrate into our evening as we move along,
16 we'll certainly do that. But we will not be
17 addressing questions. Obviously, we're here
18 to hear you. Each speaker will be given
19 three minutes to speak.

20 We're also going to, as I
21 mentioned, talk about the cooperating
22 agencies and their roles, provide an overview

1 of the project and public comments. Let me
2 talk a little bit about ground rules. I've
3 modified them. They're up on the walls.
4 They're the orange -- not orange. I thought
5 I see orange. They're the black -- I must be
6 seeing orange. They're the black and purple
7 up on the walls. Let me just go through
8 them, because they're incredibly important
9 when we have this size of a group. There are
10 some more chairs up here if people want to
11 sit down. Maybe we could find out from the
12 folks if they could bring in some more
13 chairs, that would be great.

14 So, probably people will be coming
15 and going some, but I do want to say that
16 with this many speakers, as 80 or 90, what
17 we're really asking you to do is honor, have
18 compassion, be sensitive to your fellow
19 participants when you get up here. I can
20 tell you that one of the most important
21 things is that we have one speaker at a time.
22 If I have other folks shouting, and I will

1 say that our court reporter will actually be
2 probably fairly forceful at that moment, as
3 well, because she can only take one voice at
4 a time.

5 We are formally recording this.
6 This is all going into the record, so I need
7 one speaker at a time. You will be coming up
8 to one of the microphones, there's three of
9 them around the room, and speaking. We
10 don't -- we're not taking any comments or
11 questions, as I mentioned, during the
12 presentation. You need to write anything
13 down. You were given comment cards and
14 question cards. I am asking that you respect
15 others' opinions.

16 With a group this large, I can
17 assure you that every perspective is in this
18 room. People who are for the project, people
19 who are against the project, people who work
20 for the project, many different perspectives,
21 many different opinions. We need to respect
22 those different opinions.

1 For that, what I'm asking is number
2 one, that you direct all the comments to the
3 front of the room, not across the room or
4 towards each other. That there be no personal
5 attacks, no interruptions while someone is
6 speaking. If we can avoid the side
7 conversations, that would be great, as well,
8 so again, the court reporter can capture the
9 formal comments.

10 In terms of the three minutes, I
11 will let you know that if you have a prepared
12 statement, a written statement, those
13 comments will be treated exactly the same as
14 the oral comments. So if you would like to
15 just give that to us, that's fine. If you
16 still would like to speak, that's okay.

17 What I would like to let you know
18 is that three minutes is about a page and a
19 half. So if you have four or five pages,
20 right now you need to be marking it up and
21 summarizing it a little bit because you will
22 not have that time. I will let you know when

1 you have a minute left and then you'll hear a
2 little beeper go off. I'll have it by the --
3 it sounds like this. So it's not very loud.
4 I actually have a timer belt if it needs to
5 be louder, but... at that point, I would like
6 you to just finish up so we can move on to
7 the next speaker.

8 So -- I mean, we're really asking
9 for that, quite frankly, more out of respect
10 for all of the folks in here so that we can
11 hear from everybody. We would love to
12 receive your written comments. There's a
13 basket over there. You can give them to the
14 folks out front. You can hand them to us at
15 the table at the end or during the breaks.
16 We're taking your written comments, as well,
17 and they are treated in the exact same
18 fashion.

19 So with that, I'd like to get
20 started. I do want to let people know we
21 have a toll-free hotline, a website. The
22 DEIS is at the local library, and so all of

1 that information can be obtained at the front
2 desk area where Judy and Ed are helping.
3 With that, I would like to introduce Vicki
4 Rutson from the Surface Transportation Board,
5 and she'll get us started. Thank you very
6 much.

7 MS. RUTSON: Thank you, Bonnie.
8 Can everyone hear me? If you can't hear me,
9 please raise your hand. Okay. Good. My
10 name is Vickie Rutson. I'm an attorney with
11 the section of the Environmental Analysis in
12 the Surface Transportation Board. I'm very
13 pleased to be with you this evening. I'm
14 delighted that we have such a large turnout,
15 and I'm looking forward to hearing your
16 thoughts on the Draft Environmental Impact
17 Statement.

18 First, I would like to spend a few
19 minutes telling you about the Surface
20 Transportation Board, what its process is,
21 and what it does. The Board is an
22 independent regulatory agency in Washington

1 D.C. The Board itself is composed of three
2 members: A chairman, a vice chairman, and a
3 board member. The Board is responsible for
4 licensing certain railroad actions. Those
5 include constructions, like what the DM&E is
6 proposing, rail abandonments, and rail
7 mergers.

8 In rail constructions, in general,
9 the Board engages in two kinds of reviews.
10 The first is called the merits review. In
11 that analysis, the Board looks at whether the
12 applicant is financially fit, whether what
13 the railroad applicant is proposing is in the
14 public interest, and whether there's a public
15 need for the proposal. At the end of that
16 process, the Board then has one of three
17 choices to make. It can approve the
18 proposal. It can approve the proposal, but
19 only if certain conditions that mitigate
20 impacts, including environmental impacts are
21 imposed; or it can deny the proposal.

22 The second process that occurs at

1 the Board is the environmental review
2 process. That's what we're all engaged in
3 tonight. On September 27th, the Board issued
4 a Draft Environmental Impact Statement and
5 provided 90 days comment. We're in the
6 comment period right now. We're taking, as
7 Bonnie said, both oral and written comments.
8 All comments are treated with equal weight,
9 equal definition, and equal consideration.

10 The purpose of the environmental
11 review is to give the public notice about
12 what we believe the potential environmental
13 impacts of DM&E's action is. We'll -- at the
14 close of the public comment period, we will
15 take all the comments and, if necessary, we
16 will be doing additional environmental
17 review. We'll then respond to the comments
18 and issue a document called a Final
19 Environmental Impact Statement. At that
20 point, the environmental record will be
21 closed. It will then be up to the Board to
22 issue a final decision.

1 Let me talk for a minute about a
2 decision that the Board has already issued in
3 the Dakota, Minnesota and Eastern case. On
4 December 10th, 1998, the Board issued a
5 decision finding that DM&E's application,
6 based on the information back in February
7 of '98, satisfied the transportation criteria
8 that I talked about earlier.

9 In that December 10th decision,
10 though, the Board made it very clear that it
11 didn't have all of the information in front
12 of it at that time. It said that the
13 environmental review process was just
14 started; and, until that process is
15 completed, the Board would not be able to
16 issue a final decision in this case.
17 Therefore, when we issue the Final
18 Environmental Impact Statement, only then
19 will the Board be able to issue its final
20 decision on Dakota, Minnesota and Eastern's
21 proposal.

22 Now, in preparing the Draft

1 Environmental Impact Statement, the Board was
2 acting cooperatively with five other federal
3 agencies. The Board is the lead agency, and
4 the cooperating agencies are the Forest
5 Service, the Bureau of Land Management, the
6 Army Corps of Engineers, the Bureau of
7 Reclamation, and the Coast Guard. We have
8 representatives of most of the cooperating
9 agencies with us tonight. They'll be
10 introducing themselves and talking briefly
11 about their agency's roles in this case.

12 I'd also like to mention that we
13 have representatives from the U.S. EPA in the
14 audience with us tonight. If they would care
15 to raise their hands, they're welcome. If
16 not, that's fine, too. Jim in the back.
17 Jean.

18 EPA's role in this case is to
19 review and rate both the Draft Environmental
20 Impact Statement and Dakota, Minnesota and
21 Eastern's proposal. EPA will also be
22 reviewing what's called a 404 Permit

1 Application under the Forest jurisdiction.

2 Jerry Folkers from the Corps will be speaking
3 more in detail about that.

4 So because we're here to listen to
5 you tonight, rather than listen to us, I'll
6 conclude my remarks. Thank you again so much
7 for coming this evening. I encourage you to
8 be patient. It's going to be a long evening,
9 but we're very anxious to hear your comments.
10 With that, I'll introduce Wendy Schmitzer
11 from the Forest Service. Thank you.

12 MS. SCHMITZER: Thank you, Vickie.
13 Good evening. I'm Wendy Schmitzer and I'm
14 with the Forest Service. I'm an
15 environmental analyst for the Medicine Bow
16 National Forest and the Thunder Basin
17 National Grasslands. I'm also representing
18 the Nebraska National Forest and the Buffalo
19 Gap National Grasslands.

20 I would like to introduce, in the
21 back of the room, Clint Kyle, who is the
22 district ranger for the Fall River Ranger

1 District. Hi, Clint. Mike Burk, who also
2 works in the Fall River Ranger District out
3 of Hot Springs, South Dakota. They're
4 responsible for administering the west half
5 of the Buffalo Gap National Grasslands.

6 My agency is acting upon the
7 application that DM&E submitted to us for an
8 easement crossing both Buffalo Gap and the
9 Thunder Basin National Grasslands. It's our
10 responsibility to determine whether or not we
11 want to grant that easement based on the
12 environmental analysis and with working with
13 all the other cooperating agencies on the
14 project. We're also responsible for
15 disclosing all of the effects to you of this
16 project proposal of public lands.

17 I'd also like to hear your comments
18 tonight, if you have any, on the potential
19 forest plan amendments that we will have to
20 do to the existing forest lands should an
21 action alternative be selected. So with
22 that, I would like to say thank you for

1 coming tonight and I really look forward to
2 hearing from each and every one of you. I
3 would like to introduce to you Bill Carson
4 from the Bureau of Land Management.

5 MR. CARSON: Thanks. Good evening.
6 My name is Bill Carson. I'm a realty
7 specialist with the Bureau of Land Management
8 in the Newcastle field office in Newcastle,
9 Wyoming. I'm also the Bureau's project
10 manager for the right of way application
11 filed by DM&E that may affect public lands
12 administered by the Bureau of Land Management
13 in both Wyoming and South Dakota. At this
14 time, I would like to introduce to you Jerry
15 Folkers with the Army Corps of Engineers.

16 MR. FOLKERS: Thank you, Bill.
17 Good evening. As he said, my name is Jerry
18 Folkers and I'm with the Corps of Engineers
19 in the Omaha District. I'm the project
20 manager and the point of contact for South
21 Dakota and Wyoming portions of the proposed
22 DM&E Railroad project. The Omaha District

1 Corps of Engineers were responsible for
2 reviewing project impacts within the states
3 of Wyoming and South Dakota. St. Paul
4 Districts will be reviewing the impacts
5 associated with the project in Minnesota.

6 The Corps of permit jurisdiction in
7 this matter is based on Section 404 of the
8 Clean Water Act, and Section 10 of the Rivers
9 and Harbors Act. Corps permits are required
10 for discharge of placement -- the discharge
11 or placement of dredged or fill materials to
12 the waters of the United States, which
13 include rivers, creeks, and wetlands. It has
14 been estimated that over 560 acres of
15 wetlands will be impacted, and
16 approximately 1,000 rivers and streams
17 crossed. Now, I would like to introduce to
18 you Kenneth Parr with the Bureau of
19 Reclamation.

20 MR. PARR: Thank you, Jerry. Well,
21 my name is Kenneth Parr. I'm with the US
22 Bureau of Reclamation. I'm a natural

1 resource specialist with this agency. We
2 have an office here and out here in Rapid
3 City. We're the federal agency responsible
4 for operations and administration of the
5 Angostura Dam Reservoir and irrigation
6 facilities such as canals, laterals and
7 ditches.

8 Should the Powder Basin expansion
9 project be approved and cross any of these
10 reclamation, lands, or facilities, a permit
11 for such crossings would be required from the
12 Reclamation prior to construction. I'm also
13 interested in hearing comments on issues or
14 concerns pertaining to the Angostura
15 Irrigation District and reclamation
16 facilities. I would like to turn the podium
17 over now to Steve Thornhill.

18 MR. THORNHILL: Thanks, Ken. Good
19 evening all. My name is Steve Thornhill.
20 I'm with Burns, McDonnell Engineering. We're
21 the firm that was hired to work for the
22 Surface Transportation Board to assist them

1 and the cooperating agencies in preparation
2 of the Draft Environmental Impact Statement.

3 What I'm going to do this evening
4 is talk briefly on what the DEIS contains,
5 what's in it, give kind of a brief overview
6 summary of what its results were, and then
7 talk a little bit about some of the
8 conclusions that were included in it.

9 The Draft Environmental Impact
10 Statement first attempts to present what the
11 existing conditions of the project area are.
12 In doing so, what it does is it's intended to
13 provide kind of an overview of what the
14 natural resources, what the environment of
15 the area is. Kind of paint a picture, so
16 people can get an understanding of what the
17 resources are that are in the area.

18 Secondly, it looks at the different
19 alternatives that are presented to meet the
20 project's purpose and need. In doing so
21 then, it evaluates what the impacts of each
22 of those alternatives would have on the

1 existing environment and the resources found
2 there. One of those alternatives that's
3 required to be analyzed and was analyzed in
4 this DEIS is the no action alternative.

5 The DEIS was released on
6 September 27th of 2000 for public review and
7 comment. There is a 90-day comment period.
8 Written comments, at this time, will be
9 received until January the 5th. As part of
10 the DEIS, the project's purpose and need are
11 discussed. In this case, this project has
12 two general purposes.

13 One, is to provide DM&E the
14 financial resources necessary to reconstruct
15 its existing rail line across South Dakota
16 and Minnesota. That would enable them,
17 according to their application, to provide
18 better and more efficient and safer service
19 to their existing shippers.

20 The second purpose is to provide
21 additional competitive rail access to the
22 coal mines in Wyoming. The alternatives --

1 the major alternatives that were evaluated to
2 meet that purpose and need included the no
3 action alternative; Alternative A in the
4 DEIS; Alternative B, which generally is new
5 construction along the Cheyenne River;
6 Alternative C is similar to Alternative B,
7 but it was modified to avoid areas along the
8 Cheyenne River that were considered to be
9 environmentally sensitive; and then
10 Alternative D, which involve reconstruction
11 of additional sections of DM&E's rail line
12 and new construction parallel to existing
13 rail corridors already in the project area.

14 Just to real briefly highlight of
15 some of the things that were determined for
16 the various states affected by the project.
17 In Wyoming, there would be new rail line
18 construction necessary to connect with and
19 access the coal mines. There would be one
20 new rail yard constructed in order to
21 facilitate movement of coal to and from those
22 mines. There were alternatives evaluated to

1 access the Black Thunder Mine and the North
2 Antelope Mine.

3 A couple of unique characteristics,
4 and there were many more than this. But a
5 couple, just to highlight, again, that were
6 determined in Wyoming included the Thunder
7 Basin National Grasslands and impacts to
8 that; and then also the impacts to the many
9 ranches and ranchers throughout the area.

10 In South Dakota, the project would
11 involve new rail line construction to
12 facilitate access to the coal mines. There
13 would be two new rail yards constructed, and
14 DM&E would reconstruct its existing mainline
15 across South Dakota. There were new
16 construction alternatives evaluated in the
17 Hay Canyon area, the Spring Creek area, and
18 around the community of Brookings.

19 Again, there were many unique
20 characteristics and concerns in South Dakota,
21 but the ones I would like to highlight this
22 evening included the Buffalo Gap National

1 Grasslands; various tribal and Native
2 American concerns; ranchers and farmers,
3 again, throughout the state, both in the
4 reconstruction and new construction areas;
5 sensitive riparian areas, principally along
6 the Cheyenne River, Angostura Irrigation
7 District, the many communities along the line
8 that would be affected; and the potential for
9 either reconstruction or new construction of
10 the bridge crossing over the Missouri River
11 near Pierre, South Dakota.

12 In Minnesota, the project would
13 involve reconstruction of DM&E's existing
14 line across the state. There were several
15 new construction areas, one in Mankato, one
16 in Owatonna, and one in Rochester. There
17 would be three new rail yards constructed.
18 The unique characteristics and concerns in
19 the area included the many communities along
20 the line, farms and farmers, the Mayo Clinic,
21 sensitive riparian areas and wetlands, and
22 flood control projects found in the

1 communities of Mankato and Rochester.

2 Throughout its analysis, the
3 section of Environmental Analysis determined
4 that there would be significant impacts to a
5 variety of resources throughout the project
6 area. Not all of the project components in
7 all of the states would have significant
8 impacts to these resources; but overall, the
9 following resources were determined to be, in
10 one way or another, by some portion of the
11 project significantly impacted.

12 Those significant impacts would
13 occur to safety, principally in the area of
14 rail highway grade crossing safety, geology
15 and soils, water resources, wetlands,
16 paleontological resources, cultural
17 resources, both archeological and historic,
18 threatened and endangered species, land use,
19 areas of noise, air quality, environmental
20 justice, aesthetics, socioeconomics, and
21 cumulative effects.

22 As Vickie mentioned earlier, one of

1 the components or one of decisions that the
2 Board can make on a project is to approve it
3 with conditions. As part of that mitigation,
4 measures were developed in the DEIS that were
5 felt would assist in minimizing or reducing
6 the environmental impacts. Today, those
7 mitigation measures are general to kind of
8 cover all of the different alternatives that
9 were considered. Many of them involve the
10 implementation of what would be considered
11 best management practices. That would be
12 something like use of straw bales or silt
13 fences to control erosion.

14 In addition, because there were
15 numerous federal, state, and local agencies
16 that expressed concerns about the project and
17 its impacts, there were many conditions that
18 involve coordination between DM&E and those
19 agencies to come up with a way or a plan that
20 would be agreeable to all that would
21 effectively mitigate impacts that those
22 agencies were concerned with.

1 It was also determined that many of
2 the impacts that would result from the
3 project would be difficult to mitigate.
4 Because of that, many comments were made in
5 the DEIS requesting that as part of this
6 process, you provide us your feedback with
7 what you feel would be effective or
8 appropriate mitigation for this project.

9 Then lastly, one of the things that
10 was provided or was suggested was the use of
11 negotiated agreements between communities,
12 organizations and agencies between the
13 railroad and those entities to come up with,
14 again, ways that could best mitigate the
15 impacts of the potential project. So with
16 that, I'll turn it back over to Bonnie to
17 conclude and get all of your comments. Thank
18 you.

19 MS. NIXON: Okay. Now we're going
20 to get started on the comment section. The
21 agencies do welcome your comments. There are
22 three forms that you can submit comments

1 tonight at this meeting, oral comments. As
2 we mentioned, there is a court reporter, so
3 it will be transcribed verbatim. We'll have
4 written comments on the comment sheet that
5 you hand in or that you hand in that you've
6 typed, if you would like to give those to us.
7 If, for some reason you would like to forfeit
8 getting up and speaking, just give us the
9 written comments. Again, those will be
10 treated the same way as the oral.

11 Then, finally, you may also submit
12 comments in the mail. You do have until
13 January 5th. The address is up on the side
14 of the room. It's also on the materials
15 we've given you. So that's a third way that
16 you can submit comments. The agencies will
17 be responding formally to your comments in
18 what is called the Final Environmental Impact
19 Statement. What we would like to see your
20 comments on are the Draft EIS, the
21 problematic agreement, and the biological
22 assessment.

1 Secondly, as Jerry from the Corps
2 of Engineers spoke about, their role, the
3 Section 404 Permit Applications for South
4 Dakota and Wyoming and Minnesota. Finally,
5 the proposed forest plan amendments. So
6 those are the documents that we would like to
7 see your comments on.

8 The order of the commentators -- as
9 I mentioned, we've got 80 or 90 people or so
10 signed up to speak. There may be folks that
11 come in afterwards and are on the list.
12 We're going to be taking the preregistered
13 speakers first. To begin with, we'll take a
14 few elected officials that are here with us,
15 as well as tribal representatives, and then
16 we'll get right into all of your
17 presentations.

18 As I mentioned, we would really
19 like to ask you to honor the time limit of
20 three minutes. Please take a look at your
21 speech. As I mentioned, if it's more than a
22 page and a half or so, I can tell you right

1 now you would be -- you'll be racing through.
2 So just look through your notes and summarize
3 those. Please honor that for us to get
4 through all of the presentations.

5 As I mentioned, any questions or
6 other comments, you can just drop them in the
7 box. That would be great. I think with
8 that -- and I did talk a little already about
9 the ground rules. So I think we're going to
10 get started. So our first speaker is State
11 Senator Arlene Ham.

12 MS. HAM: Thank you. I appreciate
13 this opportunity. I'm Senator Arlene Ham of
14 the South Dakota Senate, and I'm a member of
15 the Agricultural and Natural Resources
16 Committee. Also, I'm a Rapid City
17 businesswoman and an advocate for economic
18 development. I'm pleased to be able to be
19 here tonight in support of the Dakota,
20 Minnesota and Eastern Railroad, and what it
21 can do in going into the Powder River Basin
22 of Wyoming.

1 Realizing the importance of this
2 project, not only to our region, but to our
3 nation as a whole. I want to express to you
4 the appreciation I have for all of the
5 citizens of South Dakota. They will have a
6 variety of opinions, and I'm sure that they
7 will be expressed. When you have assessed
8 all of these considerations, I'm confident
9 that you will be able to conclude that a
10 permit to construct the preferred route,
11 which is Alternate C, is consistent with the
12 best interest of our nation's environmental
13 policy.

14 As a member of the legislature, I'm
15 aware of the fact that our region in this
16 country has a below average wage scale.
17 That's the one reason that I've been an
18 advocate for the Heartland Express. We need
19 good transportation. We feel these projects
20 is a permanent growth step for our work
21 force. The presence of a 21st Century rail
22 system will provide us with a reliable mode

1 of transportation that will certainly
2 accommodate the growth of industries and of
3 jobs.

4 Today, we struggle with a rail
5 system that does not meet our needs and has
6 literally no prospects for improvement. It
7 creates a minimum of tax revenue and is
8 viewed as a barrier to expanding markets in
9 both mineral and livestock marketing. For
10 all practical purposes, we are without a
11 railroad. We are isolated from competitive
12 markets and we cannot effectively use the
13 resources available to create a better
14 quality of life for our citizens.

15 In terms of jobs and economic
16 impact, I support the DM&E application to
17 construct new rail lines extending from
18 western South Dakota into eastern Wyoming.
19 To vitalize the -- to revitalize the rail
20 service on the existing lines, to construct,
21 rebuild and upgrade the overall system to the
22 estimated cost of this project would be

1 approximately \$1.2 billion of new
2 construction, \$65 million to upgrade tracks,
3 and \$200 million for the expanded capacity.
4 It is estimated that DM&E will create 5,000
5 jobs over a two-year period during the
6 construction period.

7 In addition, I'm confident that
8 this project will improve the wages of our
9 entire region. \$355 million will be spent on
10 salaries during this two-year period, 48
11 million in construction tax revenue, and an
12 estimated 4,000 permanent jobs. With 200
13 plus million in annual earnings in tax
14 revenues, it will permanently improve the
15 status of workers in not only South Dakota,
16 but throughout our region in Wyoming and in
17 Minnesota. From the perspective of the
18 environmental consideration, I'm confident
19 that both state and federal oversights of
20 this project will ensure that our environment
21 is protected.

22 While I can see that the

1 environment will change, as it did for our
2 ancestors, my father trailed his cattle to
3 the railroad station to ship them to Chicago
4 or Omaha, but they found a way to get their
5 product to markets.

6 MS. NIXON: One minute.

7 MS. HAM: But he would be the first
8 to admit that he was grateful when he had a
9 road and a truck so that he didn't have to
10 trail them. That was an opportunity that he
11 did not want to lose. Now we have to seize
12 that same opportunity to begin a 21st Century
13 rail system through western South Dakota.

14 In closing, I would like to
15 emphasize my commitment to the protection of
16 the overall quality of life in these, the
17 Black Hills of South Dakota. But change is
18 inevitable. If we do not bring ourselves
19 into the 21st Century, we will end up with
20 fewer markets for our product, higher
21 transportation costs, and a stifled wage
22 scale that denies our families the quality of

1 life that we want to enjoy.

2 A decision to deny the application
3 or take a no action will freeze us in time.
4 Our industries will not flourish, our workers
5 will earn less, and our children will seek
6 other opportunities in other places where
7 they can prosper. It is my belief that in
8 order to make us competitive in the
9 marketplace, we must have transportation
10 available and we must do it now.

11 I thank you for the opportunity to
12 convey my concerns. I am confident that a
13 decision to allow DM&E to better serve our
14 state is a sound policy for both the people
15 of South Dakota, as well as the environment.
16 Thank you.

17 MS. NIXON: Thank you. For those
18 of you who were timing, we are giving elected
19 officials, state wide officials, and tribal
20 officials five minutes. State
21 representatives, you elected them. State
22 Representative Willard Pummel.

1 MR. PUMMEL: Thank you. Good
2 evening. For those of you who booed, I'm
3 going to cut mine down to about a minute and
4 a half. I'm Representative Willard Pummel
5 from District 29. District 29 is essentially
6 Meade County and part of Butte County. I
7 live in Belle Fourche. Belle Fourche has a
8 population of 5,000 people. We have
9 about 700 trucks a day go through Belle
10 Fourche. That gives you a little indication
11 of why we would like to see some of this
12 traffic go on the railroad.

13 There's some shippers that are here
14 tonight that I've noticed that I'm sure will
15 testify as to their relationship and the
16 problems with the existing railroad. I'm
17 going to tell you very quickly about one that
18 won't be testifying here tonight. I talked
19 to him earlier. That's the wool warehouse in
20 Belle Fourche. The City of Belle Fourche
21 used to be the largest wool shipping point in
22 the United States and at that time on the

1 railroad. At this point, they don't ship
2 anything on the railroad, even though the
3 tracks are right adjacent to the warehouse.

4 As most of you know, the wool
5 industry is in trouble now. They need to
6 operate as efficiently and quickly and
7 cheaply as they can. They can't do that on
8 the railroad. We're hopeful that if we
9 support this project, and again under
10 Alternate C, with the hope that if that
11 project goes through, then the railroad will,
12 in fact, be upgraded from Wasta up in the
13 Colony line. You'll probably hear some
14 people, the bentonite people on that.

15 The wool warehouse people tell me
16 that in Montana, wool is shipped on the
17 Montana railroad line, which handles wool
18 shipments into the warehouse and out of the
19 warehouse. They operate, as in Belle
20 Fourche, on a world market. It's important
21 to those people. It's important to the wool
22 industry. That is one of the many reasons we

1 support this. Its economic development for
2 South Dakota. If it's good for South Dakota,
3 it's good for all of us individually. Thank
4 you for your attention.

5 MS. NIXON: Okay. I know that
6 State Representative Mike Derby will be
7 joining us in a little bit. I'll be informed
8 of that. Has State Representative Theresa
9 Spry arrived? Okay. Oliver -- Chief Oliver
10 Red Cloud.

11 CHIEF OLIVER RED CLOUD: How. I'm
12 going to get to the point. Okay. Attorneys
13 and people know about treaty. Okay. I'm
14 going to talk about numbers. So you people
15 have to study that. Okay. I'm here to
16 oppose that railroad track on behalf of our
17 nation, Eighth Reservation, behalf of Lakota
18 people. You have to look into not United
19 States Constitution, looking into
20 nation-to-nation, Article I. Through that,
21 look at 1851.

22 Okay. If these people is going to

1 go through with this, we have to take them to
2 court in the Congress. Because my rights in
3 this country is Article I on the United
4 States Constitution. United States
5 Constitution. Remember that. You study
6 that. You people have no treaty. It's
7 Article I, nation-to-nation on human rights.
8 I was here. Where are these people? All of
9 these laws, they got to go into the Treaty
10 of 1851. You study that, what I'm talking
11 about. That's why I'm here.

12 I'm ready to take anybody in this
13 country, even the Congress, to take to court
14 under Article I. That's me. I'm -- my name
15 is Chief Oliver Red Cloud. I've been
16 fighting my rights for many, many years. You
17 people sitting here, you should know. When
18 you talking about the American, that's me.

19 You know, there's lot of things
20 that involve what you talking about here.
21 State law. You got Indian territory. Study
22 that. But be sure to study Article I in the

1 United States Constitution, nation-to-nation.
2 That's my rights. I could take anybody, the
3 Congress, whoever.

4 MS. NIXON: Chief Marie Lange from
5 Lakota, Dahcotah, and Nakotah Nation.

6 CHIEF MARIE LANGE: I speak on
7 behalf of the Lakota, Dahcotah, Nakotah
8 Nation, international, national, traditional
9 government, USA and Canada. As Oliver was
10 sharing about our international rights, in
11 keeping with our treaty, we never
12 relinquished by a quitclaim deed our title to
13 our land that was gifted to us by Wagong
14 Dagong (?)

15 So in keeping with that, I would
16 like to share with you a description of what
17 is called a allodial title. The original
18 part of allodial title comes from the Bible
19 in Leviticus, and it became into a bigger use
20 during the 13th Century. Now, I gave one of
21 my papers away here, so let me... This is
22 used in Alaska, with the settlement going on

1 up there, and it's part of resolutions that
2 recognizes this.

3 The birth of the Christian Prince
4 of Peace, which may further uphold the
5 assertion of allodial title on account of the
6 concept or a precept that an allodium is not
7 derived from any church or state, but from
8 God, as the lawyers have derived that word.
9 When a man holds his land from the gift of
10 God only, rich land civilians call allodium.
11 So in keeping with that, a part of that of
12 our holding allodial title.

13 Allodial title may be suppressed
14 for a time by feuds, war, and war crimes,
15 such as genocide and apartheid. But it
16 remains intact on account of its immutable
17 quality. Now, this is in the Alaskan tribe
18 they're referring to. In the case of the
19 Afglofca (?), all of the indigenous and
20 tribal people there and all of their living
21 relatives would have to be genocidally
22 exterminated to effect their allodial rights.

1 As long as any indigenous peoples,
2 Afglofca, remain -- their allodium remains
3 intact, regardless of whatever laws, claims,
4 settlement acts or treaties may come to pass.

5 So remembering the genocide that
6 has occurred against this people on this
7 continent. We've lived here in our world
8 history 100,000 years. But physical evidence
9 is 30,000 years, very easy. When we lived
10 here, this land was treated as though it was
11 a mausoleum, as though it was a museum. So
12 we have every right as aboriginal people to
13 demand payment of any previous railroads that
14 have come into our country. Our territory
15 today is the Louisiana Purchase. So in the
16 future, under international treaty law,
17 support it by World Court. We are the legal
18 and rightful owners of the Louisiana
19 Purchase.

20 Now, if the international treaty
21 law and the Roman Court said, "I'm sorry.
22 You don't have a case." That would be

1 different. But we are supported. These
2 issues, these treaty rights that you want to
3 hide under the rug, the rug can no longer
4 hide our treaty allodial rights, including
5 the railroads.

6 Now, probably this railroad is
7 going to go through. In the future, we will
8 be holding intertribal war crimes tribunal on
9 the prevention, the crime of genocide. All
10 these payments, any railroads you go in, in
11 the future, your children or grandchildren
12 will be paying on taxes, this money that has
13 been used, been used on our lands that we
14 never rented to you.

15 MS. NIXON: We're now going to --
16 if there are other elected officials, you can
17 pass me a note up front. State or federal
18 elected officials or chiefs of tribes, if you
19 can pass me a note up front, we will insert
20 you in at the appropriate time; or you can
21 let me know during a break. Otherwise, we're
22 going to get started now.

1 As I mentioned, three minutes is
2 not a long time. I will -- what I'm doing is
3 sort of putting my finger up. I'm sorry. I
4 meant to say that you have one minute. So
5 I'm putting my finger up just to let you
6 know, one minute. If you could start to wrap
7 up, then that would be great. Again, we are
8 asking you to do this -- yes. Is there -- do
9 you want to come up and introduce yourself.
10 You need to spell your name for the court
11 reporter.

12 MR. SALWAY: Hello. My name is
13 Harold Salway. I'm the President of the
14 Oglala Sioux Tribe in Pine Ridge, South
15 Dakota. The position our tribe has taken, as
16 mentioned previously from the Native American
17 perspective, is one, you've got an
18 international agreement instrument, a treaty
19 between the Sioux Nations. Two, you've got
20 a -- presently, to me, a violation. In 1994,
21 President Clinton issued an executive
22 proclamation mandating that there be direct

1 consultation with the Native Americans and
2 throughout all the agencies and the
3 departments of Congress. Three, we have
4 never been allowed an opportunity to create,
5 portray the issue and perspective of how it
6 impacts the original treaty territories
7 within the confines of the boundaries.

8 As Chief Red Cloud mentioned, we
9 have an international instrument that gives
10 us prestige in many manners that is not being
11 recognized or consulted with. We have taken
12 a position that the development of this
13 railroad, albeit in nature, has some good
14 findings and some good effects; in turn, have
15 not been allowed an opportunity for Native
16 Americans to explore all the aspects and the
17 opportunities that would benefit Native
18 Americans. We don't have any direct voice in
19 Congress to express our positions or our
20 issues on this matter.

21 I don't know if I'm the only tribal
22 president here, but I'm pretty sure I can

1 speak for the rest, that there has not
2 been -- there has not been any direct
3 consultation in accordance to the 1974
4 executive proclamation. The second component
5 of that executive proclamation was "to the
6 greatest extent possible." The third was to
7 ensure that all agencies and departments
8 comply with that executive proclamation that
9 your chief executive officer mandated in
10 Congress.

11 Now, we, as Native Americans have
12 taken positions in many ways that have broad
13 rise to the issues of such a magnitude that
14 impacts our treaty or livelihood or land
15 base, our future posterity, and all that it
16 entails. All the elements that are
17 associated with this project would not be in
18 the best interest of the future generations
19 that have yet to be born, the waters, the
20 wetland areas, the marsh, the environmental
21 impact, the wildlife. I'm sure all the
22 environmental concerns are also at stake from

1 other interest groups.

2 However, the first predominant
3 factor that I've recognized, is there has not
4 been direct consultation and field hearings
5 conducted throughout all the reservations.
6 We've taken many positions on this issue in
7 the past. I've made statements for the
8 record, also, that we had violated that
9 consultation process, and the field hearings
10 on Indian reservation to get direct input.

11 July 7th, 1999, President Clinton
12 came out to my reservation, Pine Ridge, South
13 Dakota, and he stated on a
14 government-to-government basis. As I
15 mentioned, your chief executive officer has
16 stated and recognized a sovereign presence on
17 a government-to-government basis. We take
18 that position that without having direct
19 consultation, we are not allowed an
20 opportunity to express in detail our
21 concerns.

22 The many negative impacts have now

1 been identified and generated prosperously
2 for the Native American input and for our
3 tribes to take a position upon. As one
4 tribal president of the largest band of
5 Siouxs in Canada and the United States, you
6 know, we say nay to this project until we can
7 get -- or are allowed an opportunity to get
8 directly and deeply involved with this
9 project. Thank you.

10 MS. NIXON: State Representative
11 Jim Lintz from District 30.

12 MR. LINTZ: Thank you, ladies and
13 gentlemen. I'll make this brief. Senator
14 Drue Vitter over here, we basically share the
15 same feelings. To preserve time, I'll try to
16 represent both of us. It's our feeling on
17 the DM&E, we haven't come out against or for
18 the DM&E. But we do have some great
19 concerns. The communities that are going to
20 be affected, I don't believe, have the
21 guarantees that they need that something good
22 is going to happen within their community.

1 They need to know, before the project has
2 started, where the crossings are going to be.
3 Are these crossings going to be safe? Are
4 they going to haul their South Dakota
5 products? We need these in writing. So far,
6 we have not had those guarantees.

7 In speaking with the DM&E, they've
8 told us that they'll haul South Dakota
9 products when it is economically feasible.
10 They haven't given me any other guarantees
11 than that. This concerns me. We need this
12 in writing if it's going to be a benefit for
13 South Dakota. Every community throughout
14 South Dakota that wishes to have this
15 railroad needs to sit down with the DM&E and
16 make their concerns heard and have it in
17 writing before this railroad ever begins.

18 Also, please remember, I have
19 people in the district, some are going to be
20 very greatly adversely affected, and some
21 will be affected to the positive. But
22 remember these people that are adversely

1 affected, it's their life and it's their
2 life-style, so don't take their concerns
3 lightly. Thank you very much.

4 MS. NIXON: Okay. I would like to
5 ask Bill Nevin from representing the State of
6 South Dakota.

7 MR. NEVIN: Thank you. My name is
8 Bill Nevin and I'm here to represent the
9 State of South Dakota Department of
10 Transportation. The South Dakota Department
11 of Transportation is taking the opportunity
12 to make public comments for the record on
13 only a couple of issues here tonight of
14 significant importance to the citizens of
15 South Dakota.

16 More detailed comments on these and
17 additional issues of concern will be
18 submitted in the form of written comments
19 prior to the expiration of the 90-day period.

20 The Draft Environmental Impact
21 Statement acknowledges the impact of that
22 grade crossings on state highways from both a

1 convenience and a safety aspect. Part of the
2 DM&E project anticipates the construction of
3 a number of miles of new track in southwest
4 South Dakota. The new track will clearly
5 change the lay of the land and the life-style
6 of the residents of this part of the state.

7 Of paramount concern, South
8 Dakota's Governor William J. Janklow, as well
9 as my agency, are the safety and welfare of
10 this state's citizens. Virtually every
11 public document Governor Janklow and the
12 South Dakota Department of Transportation
13 have submitted, the safety and welfare of
14 this state's citizens have been discussed and
15 reinforced. As part of its final order, the
16 State of South Dakota insists that the
17 Surface Transportation Board require great
18 separations for two points in southwest South
19 Dakota where the proposed construction of new
20 rail line will intersect existing state
21 highways.

22 As a matter of environmental

1 mitigation, the State believes a grade
2 separation must be required where the
3 proposed new line will cross US Highway 18
4 immediately east of Edgemont, South Dakota;
5 and where the proposed new line will cross US
6 Highway 18/385, approximately four and a half
7 miles north of Oelrichs, South Dakota.

8 Both highways are designated by
9 Congress as part of the National Highway
10 System.

11 The Federal Highway Administration
12 Guidelines call for, and it strongly
13 recommends grade separations for all railroad
14 crossings at federal aid highways on the
15 National Highway System, particularly where
16 no previous crossing exists, as in the case
17 of new rail construction, such as here.
18 Further, both of these stretches of highway
19 handle a significant amount of traffic,
20 particularly in the summer months, serving as
21 the southern access into the Black Hills of
22 South Dakota for commercial and tourist

1 tracking.

2 Currently, a grade separation
3 crossing routing highway traffic over the
4 railroad exists where the Burlington Northern
5 Santa Fe Railroad intersects with Highway 18
6 on the northern edge of Edgemont. It would
7 be impossible to rationalize or justify a
8 grade separation for Burlington Northern
9 trains, but not for DM&E trains in the same
10 area, which would intersect at the highway
11 within a mile of each other. The nature of
12 the train traffic speed and life of the
13 trains, and the speed and volume of vehicle
14 traffic demands a grade separation. The
15 average daily traffic count immediately east
16 of Edgemont is currently just under 2,100
17 vehicles.

18 While the DM&E has acknowledged the
19 need for a grade separation crossing at this
20 highway intersection, the State's position
21 should be clear that it is the railroad which
22 should finance the grade separation and not

1 the taxpayers of the State of South Dakota.

2 (Applause)

3 MR. NEVIN: With regard to the
4 intersection anticipated just to the north of
5 Oelrichs on Highway 18/385, the State of
6 South Dakota must register an even greater
7 concern for this crossing. Not only does
8 this highway handle large volumes of traffic
9 for commercial and tourist purposes, this
10 highway handles a great majority of the
11 traffic between Rapid City, a major trade
12 center, and residents of the Pine Ridge
13 Indian Reservation.

14 A substantial amount of the retail
15 purchases made by residents on the Pine Ridge
16 Indian Reservation are made in Rapid City,
17 and traffic on this stretch of highway is
18 significant. The average daily traffic count
19 immediately north of Oelrichs is just
20 over 2,600 vehicles, slightly more than is
21 reported in the Draft Environmental Impact
22 Statement.

1 The State of South Dakota has long
2 recognized this fact, as has Congress, in the
3 state's congressional delegation. For the
4 past several years, funding has been
5 forthcoming for what is commonly referred to
6 as the Heartland Express, a four-lane highway
7 proposal to link Rapid City and the Black
8 Hills of South Dakota with Interstate 80 in
9 Nebraska.

10 MS. NIXON: Bill, one minute.

11 MR. NEVIN: Four-lane construction
12 is nearly completed between Rapid City and
13 Hermosa already, with plans in the works to
14 continue that construction further south to
15 Maverick Junction and beyond in future years.
16 The volume of traffic already dictates a
17 grade separation of this intersection, and
18 the volume of traffic will almost certainly
19 increase with the completion of the four lane
20 project.

21 As part of the STB decision and as
22 part of the environmental review, the grade

1 separation should be ordered with the DM&E
2 required to finance the separation. Further,
3 the DM&E should be required to coordinate
4 this grade separation with the South Dakota
5 Department of Transportation to accommodate
6 the construction of the separation. This is
7 clearly in the interest of the public in
8 order to prevent the construction of grade
9 separation for two lanes of highway traffic
10 which would then have to be replaced in the
11 future when the four-lane highway is
12 constructed.

13 There are three other state highway
14 crossings in this region identified in the
15 proposal. One of those will cross I90 just
16 west of Wall. That, as proposed, must be
17 enforced, a grade separation. Two others,
18 one in Highway 44 in southeastern Pennington
19 County and another, Highway 44 in eastern
20 Custer County would be appropriate for at
21 grade crossings with sufficient warning
22 devices.

1 The second point, if I could be
2 very briefly, the State of South Dakota would
3 like to address deals with the likely
4 environmental impact of the existing state
5 and local highway infrastructure during the
6 proposed construction. The draft statement
7 speaks to various impacts on highway
8 transportation of a result during
9 construction. The transportation materials
10 such as rail ties and bells and heavy trucks
11 and the movement of the construction
12 equipment to work sites is likely to
13 accelerate wear and tear on this state's
14 roadways.

15 It should be noted and understood
16 by all that the State of South Dakota is
17 committed to maintaining its highway
18 infrastructure. Consequently, the Final
19 Environmental Impact Statement should reflect
20 the state's position to impose strict
21 enforcement of motor vehicle weight
22 limitations imposed by state law. No

1 tolerances beyond the legal limitations will
2 be allowed. Thank you.

3 MS. NIXON: Thank you. Do you want
4 to give us the written? Just send it in.
5 Okay. So we're going to get started with you
6 folks. Again, it's a three-minute -- I would
7 like you to remember that I will give you one
8 minute of warning, and then please wrap up.
9 The 70th speaker is about to go at about 11
10 or 12 tonight. So I hope that you will be
11 considerate of that and be willing to stay to
12 listen to all of them, as well. So please
13 keep that in mind if you want to go beyond
14 your time, that that's what you're doing with
15 your fellow participants.

16 Okay. I apologize now if I
17 mispronounce your name. Please accept my
18 apology now if I do that. I've got a lot of
19 names here and I hope to get it right. So
20 we're going to start with Pauline Staben.

21 MS. STABEN: Good evening. My name
22 is Pauline Staben. I'm a landowner in Fall

1 River County. I found the draft to be very
2 confusing and contains numerous
3 misstatements. So far, I have just read the
4 executive summary and Volume I.

5 These yellow sticky notes indicate
6 the errors that I found in Volume I alone.
7 This draft is inadequate. NEPA states that
8 if a draft is so inadequate as to preclude
9 meaningful analysis, the agency shall prepare
10 and circulate a revised draft of the
11 appropriate portion.

12 This draft based its conclusions on
13 outdated information, questionable sources,
14 and unidentified sources. The Economic
15 Impact Analysis, which projected property tax
16 revenues and jobs for each county, was
17 provided to you by DM&E. The property tax
18 projections were overinflated, yet they were
19 not checked for accuracy by you. That report
20 is dated October 1998.

21 In February of 1999, the South
22 Dakota legislature passed a law changing the

1 formula for calculating railroad tax
2 revenues. In this analysis, property tax
3 revenues are estimated at \$3,037,000 for Fall
4 River County for 100 million tons per year.
5 A more accurate estimate using the new
6 formula is \$400,000. Your projections
7 are 759 percent more than what will be taken.

8 Because property taxes are so
9 overinflated, I question all of the figures
10 in this Economic Analysis provided to you by
11 DM&E. Please reissue the draft and provide
12 us with the correct figures, because you use
13 these figures throughout the draft to draw
14 conclusions of favorable economic impact.
15 You will have to also reassess those
16 conclusions. In Volume I, you state -- or
17 I'm sorry. One of the primary purposes of
18 this project --

19 MS. NIXON: Pauline, one minute.

20 MS. STABEN: -- is to rebuild
21 DM&E's existing line. By bypassing Rapid
22 City, you do not fulfill this purpose.

1 Concerning the Hay Canyon segment, Fall River
2 County has 12,000 acres of land classified as
3 primed farmland in the draft and it's all in
4 the Irrigation District; yet the WG Flat,
5 which appears to be your preferred
6 alternative, cuts right through the middle of
7 this. So much for DM&E's attempts to
8 minimize impact.

9 NEPA regulations state that
10 agencies shall avoid useless bulk in
11 statements and concentrate effort and
12 attention on important issues. For a boast
13 description of the affected environment are
14 themselves, no measure of the adequacy of an
15 impact statement. It's difficult to imagine
16 in this voluminous document that it is
17 incomplete, but it is. I urge you to
18 withdraw this fat document and prepare a new
19 one. With pertinent and accurate
20 information, you may reach a different
21 recommendation.

22 MS. NIXON: Thank you. Okay. We

1 have Jeff Cadotte of the Oceti Sakowin Rock
2 Nation.

3 MR. CADOTTE: Thank you. My name
4 is Jeff Cadotte. I'm a member of the Oceti
5 Sakowin Treaty Council of the Standing Rock
6 Nation. Okay. I oppose the project of DM&E
7 for the following reasons: Number one, the
8 Rapid City Journal, September 4th, 1999, put
9 in the following statement: The geological
10 underfeeding upon which the DM&E proposed to
11 build is extremely unstable. Ranchers have
12 been fighting that statement three or four
13 years.

14 Number two, according to the EIS,
15 chapter one, table 1-1, table 1-2, and
16 table 1-3, their own words, DM&E's accident
17 rate is high compared to the accident rate
18 for all railroads is among the highest in the
19 rail industry.

20 If DM&E has achieved this
21 unquestionable place of recognition in the
22 accident area, what guarantee do we have that

1 there will be no accidents on treaty
2 protected land? Also, how about the time
3 they waste coming back to South Dakota. Will
4 there be some -- I talked to President
5 Schieffer myself, and he stated that there
6 would be none in the -- as far as he can see
7 in the future. But that's questionable, too.
8 I oppose DM&E's proposed project. I reserve
9 the right to make future comments.

10 Also, there was a -- someone
11 mentioned that there would be 5,000 permanent
12 jobs that this railroad is going to have. I
13 talked to the president of the DM&E Railroad.
14 That figure is -- that's way more than what
15 he quoted me as far as permanent jobs for
16 this railroad.

17 How about all of the environmental
18 impact it's going to have on all the treaty
19 land in South Dakota? See, everybody is
20 mentioning the economic development and all
21 of this that's going to happen, but I never
22 heard nobody mention the environmental impact

1 it will have on treaty land. That wasn't
2 even mentioned at all from all that spoke so
3 far. That should be taken into
4 consideration. Thank you.

5 MS. NIXON: Dale Molitor.

6 MRS. MOLITOR: Good evening. I'm
7 Chris Molitor. My husband Dale and I operate
8 a ranching business in Smithwick, South
9 Dakota. We formally reserve the right to add
10 more comments as we continue to study these
11 documents. We are adamantly opposed to this
12 project. Our preliminary comments are,
13 number one, the Surface Transportation Board
14 has admitted this is the largest project it
15 has ever undertaken. It has taken two years
16 to write this draft. The comment period
17 should be increased by a minimum of 180 days.

18 Number two, as to financing. I
19 find no mention of DM&E's financing in this
20 draft. DM&E must prove its financing for
21 this PRB proposal. It's not enough to say,
22 "Grant this permit and financing will

1 follow." Before you ruin my business on a
2 maybe, proof of financing will be required.

3 As to need, the condition of DM&E's
4 operations is not reliable proof of need.
5 DM&E was way under the poor condition of the
6 existing line 14 years ago when they acquired
7 the line from CNW. The whole PRB Plan is a
8 duplication of rail service at a time when
9 the coal industry is in sustained decline.
10 This is not sufficient proof of need, and
11 certainly not proof of national need.

12 Number four, the executive summary
13 states the applicant shall be guided by the
14 Land Use Mitigation Policy. This policy was
15 developed by a landowner advisory board which
16 was handpicked by Kevin Schieffer and paid by
17 DM&E. The Land Use Mitigation Policy this
18 board put together is, in my opinion, so
19 farfetched as to be totally useless. Surely
20 the SEA could do better.

21 Number five, the economic studies
22 in this draft only speak to benefits, not

1 cost. What are the costs to the general
2 public and landowners along all routes? Are
3 costs limited to those of the applicant only?
4 For example, I find no studies on
5 agricultural impacts. Just a list. Where
6 are the studies, charts, graphs and data
7 representing the agricultural impacts? Where
8 is the data showing the increases and
9 expenses to landowners of the devaluation of
10 lands crossed by or in proximity to the
11 railroad lines?

12 While the STB has given preference
13 to a route that would require the acquisition
14 of over 250 miles of private land, there is
15 no provision whatsoever of how to acquire
16 this land. The STB offers no explanation as
17 to what the rights of imminent domain are in
18 this case, how they would be utilized, what
19 compensation obligations would result, and
20 indeed, if this property could even be taken,
21 give the existing DM&E line and the service
22 already being provided to the PRB. This

1 would certainly have a socioeconomic effect
2 and should be considered in the DEIS.

3 The Corps of Engineers 404 Permit
4 Application is not complete. It is limited
5 to a portion of Alternative C. To be in
6 compliance with any PA criteria, a complete
7 permit would have to evaluate all
8 alternatives. A complete copy of the new 404
9 Permit and map should be made available to
10 everyone involved in this project. In fact,
11 the Corps of Engineers should have its own
12 EIS on a project of this magnitude. This
13 draft has presented a format that's
14 intimidating to the average user, lacks
15 objectivity, and does not adhere to the need
16 for process. This Draft EIS needs to be
17 reissued. Thank you.

18 MS. NIXON: Now, whatever length of
19 paper, Dale, you have, is exactly three
20 minutes, so... Laura Stern.

21 MS. STERN: My name is Laura Stern,
22 a landowner whose family will be impacted for

1 many years to come should this project become
2 a reality. Private companies should not be
3 allowed to use the power of imminent domain
4 to take private land from unwilling sellers.
5 On August 14th, 1997, we received a letter
6 from Kevin Schieffer stating that he wished
7 to build a railroad across our pasture.

8 In a letter dated
9 October 19th, 1998, he stated that the
10 blanket of commitment that he was offering to
11 landowners could only be extended to
12 October 31st, 1998. These two letters are
13 the only communication that we have received
14 from DM&E today. The paleontologist
15 contacted us, and we suggested that they sign
16 the simple agreement for permission to
17 trespass our land. They refused to sign our
18 landowner's agreement saying they didn't need
19 to cover our acres, as they could determine
20 what was on our land by comparing it with the
21 neighbor's land. We have never been
22 contacted by the Landowner Advisory Board.

1 I noted in Volume 3-B, chapter
2 four, that log crossing time per train was
3 calculating to be 2.1 minutes for 115 car
4 trains, and 2.4 minutes for 135 car trains.
5 Maybe in a perfect world this would be
6 possible, but I feel this is unrealistic. It
7 is not uncommon for Burlington Northern
8 Railroad, a Class I railroad that has mostly
9 doubled and tripled tracks, to block railroad
10 crossings from 30 to 60 minutes or more. I
11 would anticipate that this would be more of a
12 problem with DM&E, since they are a single
13 track with spaced passing lanes. At
14 Highway 41 south of Edgemont, the highway
15 crossing is blocked for 30 minutes with
16 incoming trains, or crews are changing.

17 The railroad proposal will
18 adversely affect our entire ranching
19 operation. It would divide our summer
20 pasture in half and result in cutting our
21 cattle off of water and the only available
22 shelter in the pasture. Water is a valuable

1 commodity in this corner of South Dakota, and
2 it is doubtful that DM&E will be able to
3 purchase enough water to establish and
4 maintain dust control during construction.
5 What assurances do we have that the dust will
6 be controlled, other than just
7 Mr. Schieffer's word?

8 Most railroads, in spite of their
9 promises, are not good neighbors. Like
10 people, cattle and wildlife do not deal well
11 with constant stress. Having 37 coal trains
12 a day rumbling through our private land does
13 stress livestock. The results would be less
14 weight gain on calves, and more sickness in
15 the herd.

16 As ranchers, we try our best to
17 diminish the use of antibiotics in our beef
18 cattle. As ranchers, we don't have a lot of
19 money in the bank. Cattle and land represent
20 our retirement assets. A railroad running
21 through the middle of a ranch would certainly
22 lessen the value of the land, even if you

1 could find a willing buyer.

2 My last question is, should this
3 project move forward as planned? Will there
4 be any assurances that the stretches of
5 railroad abandoned by DM&E will be reclaimed?
6 Or will they be left to deteriorate and
7 become an eyesore in the pasture land? I did
8 not find this issue addressed in the EIS. I
9 feel that the 90-day comment period is
10 insufficient to study the data and provide
11 comment. Please extend it to 180 days.
12 Thank you.

13 MS. NIXON: Next is Carolyn
14 Schnose.

15 MS. SCHNOSE: My husband Vernon and
16 I own a ranch in southwestern Fall River
17 County. We're landowners. We do reserve the
18 right to add more comments as a lot of time
19 goes on. We are adamantly opposed to the
20 DM&E project. Tonight, I find that I am not
21 the only one who is in a state of frustration
22 after reading, pondering, and trying to

1 decipher maps and graphs.

2 I did send for the Executive
3 Summary. I requested this Executive Summary
4 thinking it would have sufficient information
5 to make a reply on. I was wrong. I sat down
6 with the perfused volumes. They were at the
7 Hot Springs library. They are a 50 mile
8 round-trip from our ranch. I found a rail
9 car full of words and they are repeated over
10 and over, many, many repetitive statements.
11 Therefore, much of the meaning is lost.

12 The maps are inadequate. They are
13 black and white copies. The details are
14 blurred and the shading disguises many
15 features. One item I searched for on the
16 maps was some type of number or symbol as to
17 the width of right of way. The line is less
18 than half a mile north of our home. I'm very
19 interested in how wide the rail line will be.
20 I consider this a very important item. I did
21 not find any width symbol or number on the
22 maps.

1 This proposed rail line will do
2 more than damage the grass on our ranch.
3 It's stated as the primary impact. These
4 rail lines will totally change ranching
5 operations and alter the future condition of
6 our ranch and our land. There are very few
7 analytical statements in this draft. Compare
8 and contrast statements used most frequently
9 allow the authors to form the conclusion that
10 Alternate C is the best.

11 One of my concerns is the quality
12 of air when the 110 carloads of coal push
13 past our ranch. All of the air quality
14 information becomes a game called "Decipher
15 This System of Numbering." Then we go on to
16 another game, and it's called "More
17 Information is Available and in the Next
18 Volume." I don't believe that the Surface
19 Transportation Board understands that water
20 is such a precious commodity in our land, and
21 I don't believe that they know that the earth
22 in our region will not forgive and forget.

1 MS. NIXON: Beverly Varelman.

2 MS. VARELMAN: Thank you. I'm an
3 affected landowner with three of the routes
4 running through our ranch: Spring Creek
5 Alternative B, Spring Creek Alternative C,
6 and the Phiney Flat Route. With the short
7 time that we've had to review this DEIS, we
8 have been very frustrated, as well. I have
9 lists before me here of errors, and they're
10 only errors in our area. What about the
11 errors in the other areas that we know
12 nothing about? How can these agencies judge
13 this DEIS by this statement they've made?

14 It says in this DEIS, in Volume I,
15 page 1-44 that this is intended to provide
16 clear and concise information to the public
17 and the agency decision makers on this
18 project. If this is clear and concise, I am
19 very confused and I'm very letdown by my
20 American justice system. I think this is a
21 travesty on us and it's just very, very
22 upsetting to me. This is my livelihood here

1 that's at stake that will wipe us out no
2 matter which route they take.

3 Like you say, they have not done an
4 impact statement on the ranchers and on
5 agriculture. Where is this in this DEIS
6 statement? We would highly suggest that you
7 write a new DEIS statement that is true and
8 correct that we can understand and that we
9 have time to get through this. I'm asking
10 for 180-day extension on this, as well. I
11 would like to give my comment papers to you.

12 MS. NIXON: Okay. Thank you.
13 Charmaine White Face.

14 MS. WHITE FACE: My name is
15 Charmaine White Face. One of my Lakota names
16 is Zumila Wobaga. I am Oglala Lakota of the
17 Titonwan Peta Sakowin from the Oceti Sakowin.
18 You would call me an Oglala Sioux from the
19 Great Sioux Nation. I welcome you in the
20 traditional ways of our grandparents to this,
21 our sacred holy land, the Black Hills. As
22 you are in our sacred land, I hope you will

1 listen not just with your ears, but with your
2 heart and your spirit, as well.

3 The verbal comments I will give
4 this evening should be the only comments I
5 would be required to give. However, in order
6 to protect the interests of all my relatives:
7 The two-legged, the winged, the four-legged,
8 the little crawling ones, the standing
9 people, those who live in the water, our
10 first medicine, the water itself, the air,
11 and of course Unci Maka, Grandmother Earth,
12 then I reserve the right to send additional
13 comments at a later date.

14 These additional comments, and
15 there are many, too numerous to mention
16 tonight, on the environmental considerations
17 within are lacking from the Draft
18 Environmental Impact Statement as prepared by
19 the Surface Transportation Board's Section on
20 Environmental Analysis, are not to be taken
21 to mean that I accept the legality of the
22 presence of the United States within the

1 boundaries of the Great Sioux Reservation.

2 My main concern is this: The legal
3 basis of land ownership in western South
4 Dakota and Wyoming to the summit of the Big
5 Horn Mountains must be addressed first. I,
6 as a member of the Oceti Sakowin, the Great
7 Sioux Nation, uphold the Fort Laramie
8 Treaties of 1851 and 1868. I realize and
9 understand that the United States does not,
10 even though the legality of those treaties
11 was upheld by the Supreme Court of the United
12 States twenty years ago in 1980. I have
13 attached a copy of the map of the lands in
14 question, as well as copies of the treaties.
15 I will send a copy of the Supreme Court
16 decision, if requested.

17 You, as employees of the United
18 States Department of Transportation's Surface
19 Transportation Board, the Forest Service, the
20 Army Corps of Engineers, the Department of
21 Interior's Bureau of Land Management, the
22 Bureau of Reclamation, and the US Coast Guard

1 should not take any proposed project under
2 consideration until that legal question has
3 been resolved.

4 I understand I'm running out of
5 time, so I'm going to skip something. I
6 would hope none of you, as individuals, would
7 ever consider accepting stolen property as
8 your own when you knew it was stolen. I
9 would expect nothing less of you as employees
10 of the American Federal Agency. Your
11 responsibility as a federal employee is to
12 abide by federal law, laws which must be in
13 compliance with the Constitution of the
14 United States.

15 Article VI, Section 2 of the US
16 Constitution states treaties are the supreme
17 law of the land. President Clinton said,
18 "Our real goal ought to be the fundamental
19 empowerment of the Native American tribes in
20 this country as envisioned by the
21 Constitution, required by the Supreme Court."
22 He asked us, Native American people, to help

1 him get this nation-to-nation relationship
2 right in a way that will allow all of us to
3 be lifted up. Again, I thank you for being
4 here. I hope you have a safe trip home.

5 MS. NIXON: Okay. Richard
6 Kjerstad, President of the South Dakota Farm
7 Bureau.

8 MR. KJERSTAD: My name is Richard
9 Kjerstad. I have a farming and ranching
10 operation about 50 miles east of here with my
11 sons. I also serve as a president of the
12 South Dakota Farm Bureau. We understand and
13 realize there are a lot of issues on this
14 proposed project. There are a lot of
15 concerns, the environmental issues, the
16 landowner's issues, the national lands
17 issues, and many, many more.

18 But at our annual meeting, our
19 delegate body of the South Dakota Farm
20 Bureau, representing over 10,000 family
21 members, voted to support the DM&E expansion
22 for the reasons that we felt it would be an

1 economic benefit for agriculture in South
2 Dakota. We desperately need that
3 infrastructure from west to east across our
4 state to carry our products out of this state
5 and products back in that we are using.

6 I would like to just give an
7 example of what's been happening the last few
8 years because of the poor quality of the
9 rail. Every year at harvest time we have a
10 shortage, they say, of rail cars because it
11 takes so long to move that grain and get the
12 cars back. Turnaround time right now is 12
13 to 14 days. If this expansion takes place,
14 then that turnaround time becomes 24 to 48
15 hours. We no longer have a shortage of cars,
16 but we have a good rail and we can move those
17 products out.

18 The present system today, if we
19 lose the rail, and that's a big concern of
20 ours, because we think that if this expansion
21 doesn't happen, we will lose the rail through
22 our area. If we lose that rail, in order to

1 replace the number of -- to replace the
2 products that are going to be hauled out by
3 truck, it will take 250,000 additional trucks
4 across our state. We think that will have an
5 adverse impact upon our highway, and
6 definitely could have an adverse impact upon
7 the environment. It's very important for us
8 to see this rail system through. I thank you
9 for your time and appreciate this opportunity
10 to speak to you, but certainly would
11 encourage the STB to take a strong look at
12 approving this project. Thank you.

13 MS. NIXON: Darwin Apple, Lakota
14 Landowner Association.

15 MR. APPLE: Good evening.

16 MS. NIXON: The mike sound isn't
17 on. Is it on? He's right behind you.

18 MR. APPLE: Can you hear me?

19 MS. NIXON: Yes.

20 MR. APPLE: Okay. Good evening.

21 My name is Darwin Apple. I also am a member
22 of the Oceti Sakowin, a member of the Oglala

1 Lakota Nation. I represent the Landowners
2 Organization called the Lakota Landowners
3 Association based on the Pine Ridge Indian
4 Reservation. Make no mistake, we are
5 extremely prejudiced against the further
6 development of the DM&E proposed extension
7 line.

8 We bring to mind the legal
9 documents that were signed and called peace
10 treaties between governments, the government
11 of the United States of America and the
12 government of the Oceti Sakowin. Peace
13 treaties which the very integrity of the
14 American people are based on,
15 constitutionally mandated documents that were
16 used to guarantee lands as peace would
17 develop between these nations. Lands that
18 were described and designated by meets and
19 bounds, the Great Sioux Reservation
20 designated by the 1851 treaties and the 1861
21 treaty -- 1868 treaty, excuse me. The
22 boundaries that were described in these

1 treaties are still legally recognized, as are
2 the documents as the supreme law of the land.

3 Aside from the numbers that the
4 economic development, as proposed by the
5 entities supporting the construction of the
6 project are forecast, we looked at this issue
7 on a more human side, the humanness of our
8 relationship to the land, the land that would
9 be destroyed.

10 When we look at the coal fields in
11 Montana, Wyoming, and see the reclamation
12 efforts and see how ugly the land has become,
13 we cannot support the project in its
14 entirety. So I thank you for your time.

15 MS. NIXON: Ron Mitzel. Dakota
16 Mill and Grain. Is it Mutzel?

17 MR. MITZEL: Mitzel.

18 MS. NIXON: Mitzel. Oh, it's an
19 "I".

20 MR. MITZEL: My name is Ron Mitzel.
21 I'm general manager of Dakota Mill and Grain
22 here in Rapid City. We own and operate eight

1 country elevators in western South Dakota,
2 with six of them served by the DM&E Railroad.
3 We, at Dakota Mill and Grain, strongly
4 support the DM&E expansion of its rail line
5 to the coal fields west of Wyoming and the
6 upgrade of its existing line.

7 The first thing I would like to
8 address is the importance of the STB to stick
9 to its current timetable on public comment
10 period on the Draft EIS of January 5th, 2001.
11 Hopefully, you will be able to issue a record
12 decision on the project by early summer
13 of 2001. I think all of us, proponents and
14 opponents, want to see some sort of closure
15 on this decision on this project. It is very
16 difficult to do any meaningful business
17 planning with the outcome of this project
18 being unknown.

19 This project will give shippers,
20 both existing and new, better service, access
21 to new markets, offer shippers more rail
22 options by offering new and better

1 connections with other railroads, which will
2 all translate to higher prices we can pay to
3 producers than we can currently offer.

4 Currently DM&E ships
5 approximately 3,000 rail cars a year. If
6 this project is not approved, shippers in
7 western South Dakota are very concerned about
8 the long-term viability of the DM&E. Will we
9 have rail service for one, two, five, ten
10 years, or are we one Mother Nature disaster
11 away from abandonment, like the CNW line in
12 northwest Nebraska that got washed out from
13 Crawford, Nebraska to Crandall, Wyoming in
14 the late '80's?

15 This project will ensure a strong
16 viable railroad in western South Dakota, and
17 will prevent 3,000 rail cars a year from
18 going to 12,000 trucks.

19 The approval of this project will
20 save and increase the life of our highways
21 and interstates from excessive truck wear and
22 tear. Grain will continue to be raised in

1 western South Dakota. But how we get this
2 grain to market in the future depends on how
3 this -- what decision you make. Approval of
4 this project will enable shippers to load an
5 additional 26,000 pounds in each car that we
6 load.

7 Next, the DM&E track limits, we go
8 from the current 263, to 289,000 pounds per
9 car. This additional weight will lower the
10 per bushel cost of shipping wheat to
11 traditional markets by eight cents a bushel.
12 Based on rail industry standards of raising
13 costs when half let on mess up the BM and
14 mess it up as what they have done, that
15 equates to an additional four cents a bushel
16 to the producers.

17 Using the last three years average
18 of production in the counties that the DM&E
19 goes through, and adjacent counties of 25
20 million bushel production of wheat, that
21 translates into an extra million dollars to
22 producer's pockets. This only addresses one

1 commodity of wheat. You also have the same
2 advantage in other hay commodities like
3 flour, millet, milo and soybeans.

4 The Dakota Mill and Grain does
5 further processing of wheat. We have a flour
6 mill in Rapid City of 4,000 money weights.
7 They are served untimely. An efficient rail
8 service has prevented any capital infusion
9 into the mill. Corporate plans to expand
10 this mill double size. Probably this
11 decision will be made that this project is
12 approved.

13 In summary, this project will bring
14 improved rail and road safety to western
15 South Dakota, bring viable long-lasting Class
16 I rail service to western South Dakota, give
17 access to new domestic and export markets,
18 bring economic development and high paying
19 jobs and reduced fuel emissions in the
20 atmosphere if we don't have to ship by
21 trucks. I guess times up. I've give you my
22 written comments.

1 MS. NIXON: Thank you. Okay. Lyle
2 Hartshorn with the Angostura Irrigation
3 District.

4 MR. HARTSHORN: My name is Lyle
5 Hartshorn. I'm speaking on behalf of the
6 Angostura Irrigation District and the
7 landowners. I, myself, have owned and
8 operated some of this land since 1961. The
9 district is to compose of 12,000 irrigated
10 acres. The railroad line will affect 11 out
11 of 90 water users. The railroad right of way
12 will take out 266 acres out of production,
13 and another 452 acres that will not be able
14 to be irrigated; and also, another 169 acres
15 that probably will not be feasible to be
16 irrigated, for a total of 887 total acres,
17 which is seven and a half percent of the
18 total acres.

19 There are 30 miles of main
20 canal, 30 miles of laterals, and 30 miles of
21 drains, surface drains and buried drains.
22 The railroad is proposed to cross the main

1 canal two times, three times over the
2 laterals, and 11 times over the drains. We
3 only get seven road crossings in 30 miles of
4 canal.

5 The district on M operating and
6 maintenance cost per acre now is running
7 at \$21.15. With a seven and a half percent
8 land loss, out of production is going to
9 raise the water deliveries. The
10 inconvenience of the deliveries, it will
11 raise it on M costs quite considerably. On
12 my individual farm, I had to go four miles to
13 get from one side of the track to the other.
14 It will also devalue the land that is
15 affected and may put some of the family farms
16 out of business. Thank you very much.

17 MS. NIXON: Thank you. Okay.
18 Allen Waner.

19 MR. WANER: My name is Allen Waner.
20 My wife Doreen and I live on Phiney Flat.
21 That's one of your proposed alternate routes.
22 The draft that you have states specifically

1 that no homes, no residences, no businesses
2 will be adversely affected. Now, what we
3 don't understand, although our property is
4 not on the tracks, and it will not cross our
5 property, we'll be within approximately 200
6 yards of the mainline track. The prevailing
7 winds are to the north and northwest six
8 months out of the year. Our home will have
9 all of those winds straight across us
10 within 200 yards, and we're concerned about
11 the fugitive coal dust.

12 Now, we run a very small furniture
13 business. We're concerned it may put us out
14 of business, and we won't be able to finish
15 our furniture with coal fines floating
16 around. We only have 40 acres, so that's
17 virtually going to cover our entire 40 acres.
18 Our home is 40 percent underground, so we're
19 concerned with vibrations.

20 None of this was addressed by the
21 draft. We were actually completely ignored.
22 We would like to see a bit more concern for

1 the people that are not strictly going to be
2 impacted by the railroad coming across their
3 property. But it's going to impact a lot
4 more people, and your study just doesn't
5 cover that. So we would like to see that
6 done. Thank you.

7 MS. NIXON: Veronica Edoff.

8 MS. EDOFF: I'm a landowner that
9 will be affected by Alternative B,
10 Alternative C, or the Phiney Flat Route, and
11 it will affect our family's ranching business
12 greatly. I would be opposed to this bill,
13 whether I was a general public worker,
14 because I am being affected just simply
15 because of the destruction this is going to
16 do to the land and the communities along this
17 line.

18 There has not been any type of
19 studies done on what is going to actually
20 happen and the long-term effects to all the
21 communities along this line. There's
22 assumptions made, but there has not been a

1 lot of study done on what are the actual
2 effects. So I support the no build
3 alternative also, because I don't want it on
4 my front door, so I don't think anybody else
5 should have it on their front door.

6 I believe the comment period is
7 absolutely unreasonable. Too short. You
8 people had two years to put this thing
9 together. We have 90 days. We only had 30
10 days for verbal comments. So I'm reserving
11 the right to comment more because I have not
12 got through even half of this material.

13 The EIS says these are -- they've
14 given us detailed maps through this whole
15 process. The minute when this thing started
16 coming up, we've been given maps that are not
17 real. There's just a map with a line thrown
18 across it. When this draft came out was the
19 first that I found out our Spring Creek would
20 be crossed 26 times, when I'm assuming maybe
21 six. I still don't know where those
22 crossings are going to be. These maps do not

1 have range or township markings on them.

2 There's no mile markings on them.

3 In your draft, you refer back to
4 mile markers and mileposts, but you cannot
5 find them. The only place that I have found
6 them is if I go to the 404, which I have to
7 drive to Rapid City to find, which is
8 a 40-mile trip. Then I've got children, too,
9 so I don't have much time to spend at a
10 library looking this up. The milepost
11 markers are on those Corps of Engineer maps,
12 but there's only one line, one Alternative C
13 on them.

14 MS. NIXON: One minute.

15 MS. EDOFF: The maps are just
16 absolutely inadequate. They even describe
17 South Dakota land descriptions and they refer
18 you back to a Minnesota map. They say no
19 businesses are going to be affected. I'll
20 have you know, my ranch is a business and
21 every ranch along this line is a business,
22 and we deserve the respect from the Board and

1 from DM&E to be referred to as such.

2 The Land Mitigation Policy, we've
3 never seen that policy. I was invited to the
4 very first -- one of the first meetings when
5 they were putting this board together to put
6 this policy together. When they found out I
7 was adamantly opposed to this thing, I was no
8 longer asked back. That we have never seen a
9 policy, as I'm sure a lot of the other
10 people. So why should we be held to a
11 mitigation when we don't even know what it
12 is.

13 There's a lot of contradictory
14 subjects in this thing, and some that are
15 absolutely not true. They tell the mile
16 markers for Phiney Flat is 11.3 and then
17 it's 10.3. Spring Creek, they say it's
18 crossed in section 21. It's not even in
19 section 21 in parts of this place. They say
20 grouse won't be affected, and in another
21 section they say there are grouse. No
22 turkeys in one section, there are turkeys.

1 I'll have you know, the whole creek is full
2 of turkeys; but they're not affected, and in
3 other places they are.

4 It's hard to keep the alternatives
5 straight, which when they're talking about at
6 times. There's no cost figured in here for
7 all the mitigation policies. Where are they?
8 That is going to be a big cost for this DM&E
9 company to put this through, and there has
10 been no cost figures in for the water they're
11 going to take from us, and that's a pretty
12 big commodity for us. There's borrow pits
13 and man camps that they talk about. That's
14 the first we've heard about them, and there's
15 no cost figured in.

16 There has been -- it says detailed
17 analysis was done on D and the no bill
18 alternative. There has been no detailed
19 maps. It states right in the thing that
20 there's no wetland detailed maps done on --
21 that are completed on D. There is no
22 economic or fiscal impacts provided for

1 Alternative D. Why not?

2 MS. NIXON: Can I ask that you
3 submit the rest? Richard Warnamunde.

4 MR. WARNAMUNDE: I'm Richard
5 Warnamunde. I'm a DM&E employee and
6 committee chairman for the employees of the
7 DM&E, and a locomotive engineer. I've worked
8 all the track from Wyoming, Minnesota, to
9 Rapid City. By far, the worse track is
10 between Fort Pierre and Rapid City. Most of
11 the track is ten mile an hour with old,
12 brittle rail. When the rail breaks, the
13 train very often details. Making a profit
14 under these conditions is very difficult, at
15 best. Without the upgrade, losing rail
16 service on this part of the line is possible.

17 Also, as an engineer, safety is a
18 real concern. With the current system, we
19 have only written track warrants to protect
20 us from other trains. But new signaling and
21 a central system control system, the train
22 crews will have advanced notice of a danger

1 or a problem on the track ahead. This could
2 have saved a train's life in Brookings
3 recently. Grade crossings would also be
4 safer with the installation of many gates and
5 light systems that do not exist at crossings
6 today. With the faster speeds, crossings
7 will be blocked for a shorter amount of time,
8 a two minute ambulance wait versus a maximum
9 of approximately fifteen minutes per train
10 today.

11 Another possibility with the
12 upgrade is passenger service. With the rise
13 in fuel costs, this could help the tourism
14 industry. I, for one, would love to have an
15 opportunity to use this service. Who hasn't
16 had delays on highway travel caused by road
17 repair? Did you know it takes
18 approximately 400 semitrucks on highways to
19 haul the same amount as a single train?
20 Saving wear and tear on the highways and, of
21 course, making them safer for travel.

22 I've heard it said, "This will only

1 profit the railroad." But if you look at it
2 logically, we all will profit. I'm sure most
3 of you have heard of the ripple effect.
4 Throw a stone in the calm water and ripples
5 go in all directions. With DM&E's project,
6 thousands of new high paying jobs will be
7 created. These people will need housing,
8 food, clothing, transportation, et cetera.
9 All of this will need to be provided locally,
10 causing a boom for local business, and
11 generate tens of millions of dollars in
12 annual revenues.

13 MS. NIXON: One minute.

14 MR. WARNAMUNDE: Other effects will
15 be development of new industries that will
16 pop up on a first-class railroad providing
17 many indirect jobs, from contractors to new
18 business opportunities. Of course, these new
19 employees and their families will need
20 something to do on their days off, certainly
21 helping the tourist industry.

22 This project will also help the

1 rest of the country. This route is shorter
2 than other competing routes; therefore, we
3 will earn less diesel fuel, reducing fuel
4 emissions into the air. This will also make
5 coal cheaper, lowering the cost of energy it
6 produces. This project will also help to
7 relieve congestion on the other two routes,
8 which can experience over 100 trains a day.
9 A third carrier will improve competition to
10 help keep transportation costs down. Thank
11 you.

12 MS. NIXON: Jack Cameron.

13 MR. CAMERON: My name is Jack
14 Cameron. I'm a retired district ranger with
15 the US Forest Service. I've lived here about
16 two years now. I live near Oral with my
17 family on about 300 acres of land that we
18 purchased by other family members about two
19 years ago. I'm totally opposed to the DM&E's
20 Railroad expansion proposal. I
21 request 180-day extension of time to comment
22 both on the DEIS and the COE 404 Permit

1 Application. They only weigh 66 pounds and
2 they do deserve a thorough review. I'm going
3 to fight this proposal all the way to ensure
4 due process. I formally reserve the right to
5 comment more on these documents at a later
6 date.

7 Alternative C, the WG Divide
8 Alternative, as proposed, runs about 250
9 yards from my house. It would split our
10 property in half, be an environmental
11 disaster to wetlands, and would negate the
12 reason that we moved to pristine rural South
13 Dakota. If you can imagine 30 to 50 unit
14 coal trains per day blowing shrill whistles,
15 vibrating the earth, spewing diesel fumes,
16 coating the wetlands and prairie with noxious
17 coal dust. I couldn't live there with a
18 railroad in my front yard, nor would I ever
19 be compensated enough to be content. I much
20 prefer the peace and quiet, the rustling of
21 leaves, and birds to singing -- birds singing
22 to a noisy, dirty railroad.

1 No public scoping was ever held on
2 the WG Divide Alternative. It just appeared
3 one day. The DEIS states that all three
4 variations of Alternative C, Hay Canyon,
5 Oral, and WG Divide Alternative would have
6 significant environmental impacts, however,
7 to different resources. The WG Divide
8 Alternative is just as environmentally
9 sensitive as Hay Canyon or the Oral segments.

10 This alternative is now the
11 preferred alternative of DM&E and it's the
12 only route variation shown in the COE's 404
13 Permit Application. To my knowledge, there's
14 never been any tour by scientists to look at
15 the WG Divide Route. To date, none of the
16 cooperating agencies have talked to any of
17 the landowners or completed any sites
18 specific environmental studies. The question
19 of splitting up the Angostura Project
20 irrigated lands is not adequately addressed.

21 MS. NIXON: Jack, One minute.

22 MR. CAMERON: Both permits are

1 difficult to read and contain outdated data.
2 They contain graphs and charts with no
3 references and very poor indexing. Both
4 documents should be withdrawn until a more
5 professional up-to-date Draft EIS can be
6 prepared.

7 The Cheyenne River and the Bad
8 River have portions of their drainages listed
9 as impaired by the State of South Dakota
10 following federal guidelines. No mention or
11 mitigation on river impairment is in either
12 document.

13 Soils in many drainages, especially
14 the Cheyenne River Valley, are unstable. I
15 submit that adequate engineering studies have
16 not been completed and there will be very
17 costly maintenance and delays in these
18 unstable areas.

19 Questions: If DM&E's proposal is
20 such a fine idea, why doesn't Rapid City get
21 it? Who pays for these permits?

22 (Applause)

1 MR. CAMERON: Has the Surface
2 Transportation Board ever denied a railroad
3 expansion? If the projected low sulphur coal
4 supply in the Powder River Basin runs out
5 in 8 to 12 years, why will we spend 1.5
6 billion for a third competing railroad? Why
7 should local governments pay for crossings,
8 bridges and bypasses?

9 Economic benefits are exaggerated,
10 and taxes paid by the railroad are not
11 realistic nor adequately documented. The
12 only way DM&E can reflect their stated intent
13 to be environmentally sensitive is for the
14 cooperating agencies to select the no action
15 alternative.

16 MS. NIXON: Thank you. Joe Givens,
17 Philip Chamber of Commerce. Is Joe here?
18 Okay. Dennis Anderson.

19 MR. ANDERSON: My name is Dennis
20 Anderson from Wall, South Dakota. I'm the
21 chairperson of the Economic Development
22 Committee of the Wall Chamber of Commerce.

1 Small towns in rural South Dakota face very
2 difficult challenges. We find it nearly
3 impossible to hold our own. The economic
4 condition of our entire region is suffering.

5 The DM&E project offers exciting
6 opportunities for our community and will
7 bring jobs, new families, construction
8 activity, a new tax base, increased retail
9 sales, and a great opportunity for our
10 community to diversify its economic base.
11 Our grain farmers need the DM&E project. A
12 new railroad would also attract new economic
13 development opportunities. I support the
14 DM&E project and encourage the Surface of
15 Transportation Board to approve the project.
16 Thank you.

17 MS. NIXON: Brian Brademeyer.

18 MR. BRADEMEYER: My name is Brian
19 Brademeyer. I'm a trained civil engineer. I
20 have a Bachelor's and Master's degree from
21 the Massachusetts Institute of Technology,
22 where I spent fifteen years as a senior

1 research engineer in the Transportation
2 System Division. I specialized in analyzing
3 infrastructure projects, including railroad
4 projects in Africa, Europe, and North
5 America.

6 In August of 1999, I sent you a
7 letter essentially arguing that one percent
8 maximum grade and one degree of maximum
9 curvature of ground built along the Cheyenne
10 River Valley on either Alternative B or
11 Alternative C than was actually less
12 earthworks coming up to Rapid City with a
13 bypass. That letter was ignored.

14 In October of 1999, I sent you
15 another letter showing that those maximum
16 constraints made it infeasible to come up out
17 of the Cheyenne River Valley at the "Wall
18 Hill" unless you had a considerable tunneling
19 effort. That also was ignored and is still
20 being ignored in the DEIS.

21 The more I look at this from a
22 transportation standpoint this project

1 doesn't seem to make any sense at all. This
2 first figure shows what DM&E is essentially
3 proposing as their optimistic scenario.
4 There will be 400 million tons of coal down
5 in the Powder River Basin down the road under
6 their long-term scenario for which they
7 haul 100 million tons, so they increase the
8 existing capacity by about one-third at a
9 cost of \$1,400 million.

10 What they don't discuss from a
11 transportation standpoint is what they would
12 do with those 3 million empty railroad cars
13 per year. Which is what, I think, would
14 actually be the result of down the road how
15 the system would operate. It doesn't make
16 sense for either UP or BNSF to take the
17 empties if it can unload them onto a weaker
18 carrier and keep the profitable capacity for
19 itself, that would be how it would operate.
20 The DM&E projects that it will have three
21 trains per day that are on hot coal.

22 MS. NIXON: Brian, one minute.

1 MR. BRADEMEYER: That is going to
2 be an empty backhaul link for essentially all
3 the empties, and it will be a light-rail link
4 costing probably less than \$700 million. It
5 will double that existing capacity for coal
6 or whatever other mainline freight they want
7 to pay to use that system. I think that
8 there will be no commodities whole in South
9 Dakota. They'll be fighting the flood of 80
10 to 120 empty coal trains per day coming east
11 on that right of way.

12 That's why every proposal from DM&E
13 is essentially a line on a map that makes no
14 engineering sense what they -- they shift all
15 these different alternatives. I would urge
16 all the cooperating agencies to be
17 responsible and to deny this permit and
18 single bill.

19 MS. NIXON: Okay. Marge
20 Charbonneau.

21 MS. CHARBONNEAU: I'm Marge
22 Charbonneau. I'm making these comments for

1 Mike and Renee Kindred who live in Oral.
2 Members of the Board, thank you for allowing
3 me to comment on the Draft Environmental
4 Impact Statement for the Dakota, Minnesota
5 and Eastern Railroad. I am somewhat
6 uninformed of some items contained in the
7 Draft Environmental Impact Statement due to
8 factors beyond my control.

9 Those factors being the short
10 period of time given to review the very
11 complex and lengthy documents, and the lack
12 of pertinent information provided by the
13 railroad. With so many different designated
14 routes and the lack of maps, it was
15 impossible to know which lands would be
16 affected. It is ridiculous to assume we can
17 adequately comment on a project when so much
18 of the information has been kept from the
19 majority of the people it affects.

20 Landowners have received very
21 little factual information regarding this
22 project. I also have not been able to review

1 a copy of the Corps of Engineer's 404 Permit
2 Application, nor have I seen the Land
3 Easement Mitigation Policy and Plan
4 negotiated by the Landowner's Advisory Board.
5 A board, I might add, that is made up of
6 members recruited by DM&E president, Kevin
7 Schieffer, and all openly in favor of the
8 railroad.

9 I am not, nor have I ever been, in
10 favor the railroad. How does this Board
11 properly represent my interests? The only
12 parties receiving a copy of their policy were
13 the ones who signed an agreement with DM&E to
14 have their land appraised. Obviously,
15 landowners unwilling to sell were treated
16 very prejudicially. Why didn't the DEIS
17 inform landowners of the South Dakota state
18 laws pertaining to mitigation?

19 It is my understanding that the
20 Draft EIS was to consider any paleontological
21 or archaeological artifacts, and endangered
22 or threatened animals and plants.

1 Personally, we were never contacted, nor has
2 anyone else we know been contacted by any
3 official asking to analyze our land to look
4 for the presence of these items. With so
5 much emphasis being placed on such artifacts
6 in our environment these days, why weren't
7 these items fully addressed? How can we
8 preserve our history and our endangered
9 species when the railroad is allowed to go
10 over the top of them without ever considering
11 their worth or, quite likely, their
12 destruction. How can you protect these
13 valuable --

14 MS. NIXON: One minute.

15 MS. CHARBONNEAU: -- additions to
16 our society when you did not take the time to
17 look for them?

18 Agriculture is the leading industry
19 in the State of South Dakota. However, in
20 the Draft EIS, we received very little
21 consideration. We are responsible for
22 feeding the nation and being good stewards of

1 the land; and yet, our concerns over the
2 problems the railroad would cause our
3 operations are dismissed as unimportant. We
4 are not even considered a business.

5 The railroad will have a huge
6 impact on our operation in terms of increased
7 man hours, availability of feed and water for
8 our livestock, increased risk of fire,
9 problems crossing the tracks, and possible
10 injury to livestock. These are not merely
11 inconvenient impacts, but would dramatically
12 increase our expenses.

13 How can building a railroad across
14 Thunder Basin and Buffalo Gap National
15 Grasslands be a nonsignificant impact when it
16 will disturb all of the wildlife and natural
17 scenery. This railroad will change the
18 natural landscape, create a lot of noise, and
19 inhibit or terminate the migratory patterns
20 and natural watersheds. How does the
21 railroad fit into the current National Forest
22 Service plans to create more wilderness and

1 service scenic areas? Thank you very much.

2 MS. NIXON: Leonard Benson.

3 MR. BENSON: My name is Leonard
4 Benson. I am one of the landowners that will
5 be impacted by the rail alignment. It
6 appears like there was three possible routes
7 through that area, and they would all -- all
8 three possibly affect me. I am going to take
9 a short route here. I handed in my sheets to
10 Victoria Rutson. I want to just say ditto to
11 Senator Ham's and to Richard Kjerstad. I
12 would like to also say I agree with the
13 people that want this decision sooner than
14 later. Thank you.

15 MS. NIXON: Okay. David Hahn.
16 Mayor David Hahn.

17 MR. HAHN: Good evening, ladies and
18 gentlemen. Dave Hahn, Mayor of Wall. First
19 of all, thank you for allowing me to comment
20 on the DM&E expansion project. The loss of
21 the current services provided by the DM&E
22 rail is going to be most devastating to our

1 community. We would lose employees and their
2 families. Much worse, would be the
3 extraordinary large number of trucks needed
4 to carry the large amounts of products
5 through the processing plant.

6 The new DM&E line would be a very
7 positive economic development to our
8 community, the State of South Dakota, and
9 this great nation we live in. This project
10 will help support the farm economy, improve
11 our tax base, prevent large increase of
12 interstate truck traffic, thus improving
13 highway safety.

14 This railroad system will be here
15 for many decades to come and to provide a
16 much needed transportation system. This
17 needs to be strongly emphasized. We, the
18 community of Wall, do strongly support the
19 DM&E expansion project and do hereby request
20 the approval and support of this project.
21 Thank you.

22 MS. NIXON: Randy Surtross.

1 MR. SURTROSS: Thank you. My name
2 is Randy Surtross. I represent Bentonite
3 Performance Minerals by the worlds leading
4 bentonite producers. Bentonite is an
5 industrial mineral that is used in many
6 products that each one of us in this room use
7 every day. Bentonite has been mined and
8 processed in northeast Wyoming and western
9 South Dakota since the early 1900's providing
10 stable, high paying jobs. Our products are
11 used worldwide. An efficient cost-effective
12 rail transportation is essential for our
13 industry. Without rail transportation, our
14 industry would not exist. There is not one
15 bentonite plant in this region that exists
16 without rail service.

17 Our plant in Colony, Wyoming
18 employees over 80 people. Our annual payroll
19 is in excess of \$3.5 million. We pay
20 significant taxes to the State of Wyoming and
21 Montana. Also, since over 90 percent of our
22 employees live in South Dakota, South Dakota

1 derives significant revenue.

2 Bentonite Performance Minerals,
3 together with American Colloid, employ
4 over 300 people, with an annual payroll in
5 excess of \$10 million. As you can discern
6 from the above facts, the DM&E rail project
7 is not just a coal project. It is a critical
8 importance to other industries, including the
9 bentonite industry.

10 Since the DM&E acquired this line,
11 they have worked hard to improve service and
12 equipment. But it is important for everyone
13 to understand the infrastructure challenges
14 that the DM&E faces today. The previous
15 owners of this line allowed the system to
16 deteriorate through decades of neglect.
17 Today, the DM&E system has a load limit
18 of 263,000 pounds, which is significantly
19 below industry standards of 286,000 pounds.
20 Even with the lower weight limits, the DM&E
21 has frequent rail failures. Also, --

22 MS. NIXON: One minute.

1 MR. SURTROSS: Also, a portion of
2 the DM&E line between Wall and Pierre is in
3 incredibly poor condition. These
4 infrastructure problems and lengthy transit
5 times put us and all other industries on the
6 line at a competitive disadvantages. The
7 DM&E's expansion and rebuild project will
8 allow them not to only access the Powder
9 River Basin coal fields, but to rebuild 600
10 of the 700 miles of line that our products
11 travel across. This is needed, not only for
12 our industry to survive, but for the other
13 industries served by this line.

14 In summary, Bentonite Performance
15 Minerals is in strong support of this
16 project. If this project does not go
17 forward, the bentonite industry in northeast
18 Wyoming, western South Dakota, and southeast
19 Montana will be faced with serious long-term
20 losses up to, and including, the plant
21 closures. Thank you.

22 MS. NIXON: Okay. Norbert Sebade.

1 MR. SEBADE: My name is Norbert
2 Sebade. I'm from Wall. In the mid '80's,
3 rural community leaders from Philip, Midland,
4 Wall, and many other communities along the
5 rail line rallied behind a huge effort to
6 save the rail service from western South
7 Dakota. The task seemed insurmountable. But
8 through a statewide effort, the DM&E was
9 created. The DM&E has served us well over
10 the years. But without the completion of the
11 proposed expansion, the rail line will not
12 survive the next decade. With rapidly
13 deteriorating rail and a very limited
14 customer base, DM&E has not and will never be
15 able to keep pace with the need for capital
16 improvements.

17 The DM&E expansion is about a lot
18 more than just transporting coal. It's about
19 transporting clay, cement, timber, bentonite,
20 and many other raw materials. It's about
21 jobs. It's about jobs not only related to
22 those industries, but also jobs, of course,

1 related to the railroad itself. I recognize
2 there's a price to pay when new roads, new
3 pipelines, new utility lines, and new rail
4 lines are built. For that reason, we must be
5 assured that the landowners are treated
6 fairly and the prudent steps are taken to
7 protect our environment.

8 I am confident that, under the
9 watchful eye of the various government
10 agencies, the DM&E will continue to be a good
11 neighbor and the proposed expansion will be
12 one of the largest economic expansions that
13 this state has ever experienced.

14 MS. NIXON: One minute.

15 MR. SEBADE: South Dakota needs the
16 DM&E expansion, and I urge that you give
17 final approval to this project without
18 further delay. Thank you.

19 MS. NIXON: Is Lou Byer here?
20 Okay.

21 MR. BYER: Good evening. I'm Lou
22 Byer. I'm a manager of a local business.

1 We're in the metals of the new steel
2 distribution and metals recycling industry.
3 I'm here tonight, not only representing our
4 business, but also our industry, in general.
5 Quite simply stated, we're assemblers. We're
6 assemblers of products produced by a wide
7 range of a cross section of our -- of peoples
8 in this society. We assemble those products
9 into packages and ship them to mills, and we
10 turn around and buy those finished products
11 back from the mills and bring them back to
12 our trade areas and distribute them for
13 construction and personal use.

14 Our company has been involved in
15 this particular business for at least 100
16 years. The rail has been a vital -- a very
17 vital option for us for transportation.
18 Looking ahead to the next 100 years, I would
19 like to pose a couple of very simple basic
20 questions. Number one, will we continue to
21 require these services, which is basically
22 recycling and distribution of new products?

1 I would like to speculate that that answer is
2 yes.

3 The second question is, will
4 improvements be required to continue these
5 services in the future, which is upgrading
6 the DM&E's line and expansion? I would like
7 to speculate that that answer is also yes.
8 In the interests of industrial commerce, we
9 support the upgrading and expanding of these
10 rail services for the future. Thank you and
11 good evening.

12 MS. NIXON: Don Higgins.

13 MR. HIGGINS: My fellow Americans,
14 my head is bent out of shape after reading
15 this Draft EIS, and it may be permanent. So
16 I submit to you I will speak fast and loose.
17 It is one thing for the DM&E Railroad to
18 fantasize about a world class railroad in
19 western South Dakota powered by a coal mine.
20 It is another very serious matter for a
21 private, for profit, railroad to mess with
22 the clean air at Badlands National Park.

1 Dirty diesel fumes six miles up into the
2 Badlands is just not acceptable for a Class
3 One bomb airship. No amount of mitigation or
4 glib talk about best management practices can
5 alter the federal law, the Clean Air Act,
6 which protects Badland's air from further
7 degradation.

8 • You will see, STB, the world of
9 people speaking nationwide for clear vistas
10 and clear natural vision expressed through
11 our public servants of our national park
12 service doing their mandated job of
13 protecting clean air in the Badlands. On the
14 basis of one federal law, the Clean Air Act,
15 acclaimed by taxpayers who breathe air and
16 who have long eyes, the DM&E coal train
17 proposal is illusive and shall not be
18 permitted anywhere up in the Badlands
19 National Park.

20 STB and DM&E should not be
21 surprised by the number of public interveners
22 supporting the MPS in administrative appeals

1 and court cases soon to appear in your face
2 if you dare permit this coal train. As for
3 Alternative C, in the Cheyenne River
4 drainage, actually, Alternative D, the liner
5 on Rapid City is also a no build action with
6 no possible mitigation of diesel exhaust
7 anywhere up in the Badlands National Park.
8 It is a no build either way.

9 So in the second Draft EIS, let's
10 get serious about air quality issues with
11 even a minimum number of stingy, old model
12 DM&E locomotives in motion or idling. STB
13 cannot hide from your responsibility to
14 adhere to federal law regarding clean air and
15 Class One airships or --

16 MS. NIXON: One minute.

17 MR. HIGGINS: Holy smokes. If you
18 try to blow smoke -- or smoke or snow on this
19 matter, you will have nowhere to hide. You
20 will be exposed in court. Also, regarding
21 train noise for South Dakota residents will
22 be exposed, visitors, Badlands Park exposed.

1 The noise matters are irresponsibly dealt
2 with in the Draft EIS. For the good water of
3 western South Dakota. Good water for good
4 river, the Cheyenne River. But for the DM&E,
5 the bad shale slopes on unstable pure shale
6 with no place for -- is no place for even
7 coal trains.

8 The Bihlmeyers, Jensens, Schells
9 and I, speak with one voice in proposing new
10 construction on the pure shale, the Bald
11 Creek, and the Bald Creek/Bald Hill area.
12 DM&E may be able to build it, but they can't
13 hold the shale backs. Its an engineering
14 black hole under Alternative C, sucking money
15 and perpetuity. Why would any investor want
16 to drop money into miles of black shale?

17 I could go on and on, but the
18 facilitator has better things to do. Simply,
19 this is a no build. It's not good for anyone
20 in western South Dakota. It's at the end of
21 the day -- there will be no rosy end of the
22 day for the DM&E for any investors in this

1 bill. Thank you.

2 MS. NIXON: James Ross.

3 MR. ROSS: My name is Jim Ross, and
4 I'm a member of the Economic Development
5 Committee of the Chamber of Commerce in Belle
6 Fourche, and I wish to speak in support of
7 the DM&E application. My qualifications to
8 speak on this subject include a work history
9 with 39 years of jobs involving
10 transportation, by baggage carriers, post
11 office, air carriers, trucks, ships and
12 railroads.

13 The City of Belle Fourche grew up
14 around the new depot of the Fremont, Elkhorn,
15 and Missouri Valley Railroad which was opened
16 in December of 1890. For 110 years, the
17 railroad has been a vital economic factor in
18 our picture. Currently, the bentonite
19 industries in Belle Fourche and Colony,
20 Wyoming ship approximately 1.3 million tons
21 of bentonite and 18,300 railroad cars out of
22 there each year.

1 The alternative to rail shipping
2 for this product is truck. Some bentonite
3 does move by truck, both bulk and bagged. If
4 possible, if shipped all by trucks, it would
5 take approximately 58,000 trucks. That would
6 be about 160 trucks every day, seven days a
7 week, loading out of these four bentonite
8 plants and travelling on our highways. The
9 cost could be prohibitive because each truck
10 has one or two drivers and a power unit.

11 With a rail, each train, with up
12 to 150 cars, has two operators and three to
13 five power units. Belle Fourche needs a
14 strong, viable railroad to support the
15 bentonite industry and the other smaller, but
16 no less important shippers and receivers of
17 freight in this town and the rest of the
18 northern Black Hills. The DM&E Railroad
19 needs the proposed expansion to enable them
20 to do the necessary rebuilding of their
21 rail -- of their road bends and rails so they
22 can continue to serve us.

1 We believe a strong DM&E Railroad
2 will help the economy and the rest of the
3 State of South Dakota through job growth and
4 business growth all along the route. We also
5 believe conflicts and problems can be solved
6 by negotiation. The Economic Development
7 Committee's hope is to improvise up to this
8 message in support that the DM&E be a good
9 neighbor as much as possible in this land
10 acquisition and its operations. Thank you.

11 MS. NIXON: State Representative
12 Mike Derby.

13 MR. DERBY: Good evening. I'm Mike
14 Derby, State Representative from District 34.
15 We have precious time tonight. I have two
16 and a half pages of written testimony I will
17 provide, but I'll condense it for us this
18 evening. As a member of the House
19 Appropriations Committee, Rapid City
20 businessperson, and past chairman of the
21 Board of Directors of the Rapid City Area
22 Chamber of Commerce, I am pleased to stand

1 here today to testify in support of the
2 expansion on the Dakota, Minnesota and
3 Eastern Railroad into the Powder River Basin
4 of Wyoming.

5 As a member of our legislature, I
6 have a responsibility to examine all facets
7 of proposals that will materially affect our
8 citizens. In the case of the DM&E expansion,
9 I've noted the following areas of significant
10 improvements:

11 We will experience greater levels
12 of railroad safety in terms of new rail
13 signals and controls, better rail crossings,
14 and shorter delays at railroad crossings. We
15 will have the potential to restore rail
16 passenger service as both the transportation
17 component and tourism attraction.

18 We will extend the life of our
19 highway system by reducing thousands of heavy
20 truck trips, whether hauling commodities or
21 natural resources. We will create an economy
22 capable of transporting industrial products

1 to distant markets at a reasonable cost.

2 We will help alleviate the
3 overburdening of sister communities who have
4 railroads moving coal through their
5 neighborhoods. Lesser diesel emissions will
6 be generated by more efficient engines and
7 fewer heavy trucks. The availability of low
8 sulphur coal will reduce the amount of
9 sulphur dioxide emissions produced in
10 overburdened and nonattainment areas around
11 the country.

12 I am confident a decision to allow
13 DM&E to better serve our state and nation is
14 sound policy for both the country and our
15 state. Thank you very much.

16 MS. NIXON: Okay, folks. We're
17 going to take, I'd say, absolutely no more
18 than a ten minute break. We have about --
19 let me just -- before everybody gets up, let
20 me just tell you, as I mentioned, we are
21 about a third of the way through our list,
22 which means we probably have another three

1 hours. So we really want to start again
2 at 25 to 9.

3 If you do not want to speak, if you
4 have your name on the list and you want to
5 submit written comments, please let the folks
6 at the front desk know so that we can take
7 the name off of the list or remove it. So
8 let's take about ten minutes and come back in
9 the room and we'll start again.

10 (Recess)

11 MS. NIXON: Okay. I would like to
12 call up -- excuse me. If we could, I would
13 like to call up Rodney Renner. Rodney,
14 you've got to turn them on. Get them to be
15 quiet.

16 MR. RENNER: Thank you. My name is
17 Rodney Renner. I'm involved in production of
18 agriculture in eastern Pennington County. I
19 rise and speak in favor of the rail expansion
20 project. I realize there's problems. I do
21 feel that rail traffic is the most
22 environmentally friendly and economically

1 feasible way to move products across wide
2 open spaces. My family has depended upon the
3 rail system for nearly 100 years in our
4 agriculture production in eastern Pennington
5 County. I have written comments, and I will
6 turn them in to you. Thank you.

7 MS. NIXON: Okay. Is Peggy Sanders
8 here? Peggy Sanders. Okay. William
9 Bielmaier.

10 MS. SANDERS: I'm here.

11 MS. NIXON: Oh, I'm sorry, ma'am.
12 I didn't see you.

13 MS. SANDERS: My name is Peggy
14 Sanders. My family and I own and operate an
15 irrigated farm and ranch on the Angostura
16 Irrigation Project, which is located on the
17 WG Divide Route. According to
18 Volume 3-A, 4.1-11 and 12, the 12,000 acres
19 of Angostura Irrigation Project are the only
20 prime farmland acres in Fall River County.
21 The same reference says, "Farming this land
22 results in the least damage to the

1 environment." How then, can the STB even
2 consider allowing DM&E to go through the
3 middle of this prime farmland of the
4 Angostura Irrigation District?

5 I must note also, that any of the
6 maps included in the 404, none of them show
7 any of the Angostura irrigation canals or any
8 sort of infrastructure for the irrigation
9 district.

10 How many of you on this panel have
11 gone down Highway 79, south of Rapid City, in
12 the direction of Hot Springs? Show of hands.
13 Okay. Please look at the map I have given
14 you. That's the one at the top of your pile.
15 It shows Alternative D. In Mr. Schieffer's
16 sworn testimony to the STB on June 9, 1999,
17 he states, and I quote, "So why is this crazy
18 railroad cutting out across new territory
19 when it already has a route that gets from
20 the same point A, (Wall, South Dakota) to the
21 same point B, (Smithwick, South Dakota)? The
22 answer to this very logical question is

1 simple. The Black Hills are in the way."

2 This is still a quote. "By
3 definition, rail alignments in mountainous or
4 particularly hilly terrain involve
5 significant grades and curves. The first
6 opportunity to get out of the Black Hills is
7 the Cheyenne River drainage. The grade and
8 curvature problems of the DM&E south and east
9 of Rapid City as it runs through the Black
10 Hills. The mountain grades simply will not
11 support modern railroad operations. The
12 curves are often grouped close together as
13 the track snakes around and up and down the
14 Black Hills."

15 All of these statements -- that's
16 the end of the quote. All of these
17 statements speak all about Alternative D.
18 This testimony can be found in its entirety
19 on the STB or DM&E websites.

20 As you can see from the map I gave
21 you, and any other topographic map, the current
22 DM&E right of way does not go through the

1 Black Hills. With this in mind, I would hope
2 the agencies would weigh any information
3 given to them by DM&E as to whether or not it
4 is factual. I would call on the agencies to
5 perform their own, independent engineering
6 studies in order to ascertain the viability
7 of Alternative D.

8 Then, is Alternative D even still
9 an alternative? In the Executive Summary,
10 ES-38 says SEA has concluded Alternative D
11 would not be the environmentally preferable
12 action alternative, and it's eliminated from
13 further consideration. But in Volume I, it
14 says one existing corridor, Alternative D,
15 would be retained for analysis.

16 Please turn to the next page in the
17 items I've given you. There's one endangered
18 species that was not mentioned in the draft.
19 That's family farms and ranches. Why do
20 federal agencies want to put prairie dogs and
21 wetlands on a higher plane than people and
22 their livelihoods? Farming and ranching are

1 businesses. If either Routes B or C are
2 approved, these businesses will stand to lose
3 a great deal of productivity, profitability,
4 and convenience. Why should individuals, in
5 this case farms and ranchers, have to become
6 less productive and reduce their income in
7 order for another private business?

8 I've given you a photo. I would
9 please like you to take your black pen and
10 draw a black mark across from the black --
11 one black dot to the other. That's our
12 family farm. When you do that, you're going
13 to take out 80 acres of irrigated land
14 forever. If the WG Route is approved, the
15 stroke of your pen is all it's going to take
16 to take this land out of production. Please
17 hang this photo above your workplace, just to
18 remind you of the gravity and severity of the
19 decision.

20 If the railroad is expanded, the
21 only acceptable alternative is D, where DM&E
22 currently owns the right of way. If the

1 agencies are truly looking for the least
2 environmentally intrusive route, it has to be
3 D, where the line is currently in use.

4 I would ask that the folks that are
5 speaking so highly about the railroad in
6 Rapid City and Colony, Wyoming and Belle
7 Fourche, there's absolutely nothing in the
8 DEIS that addresses that fact. Will that
9 ever be improved? Or will it be abandoned?
10 Or is it going to be addressed at all? Thank
11 you.

12 MS. NIXON: William Bielmaier.

13 MR. BIELMAIER: Ladies and
14 gentlemen, my name is William Bielmaier. My
15 ranch headquarters are located immediately
16 west of Wall, South Dakota, near
17 Interstate 90, Exit 107. The Bielmaier ranch
18 involves four families which have extended
19 over three generations. I'm a grandfather
20 who looks forward to seeing a fourth
21 generation become a part of this family
22 operation. We farm and ranch

1 approximately 7,500 acres of deeded and 4,000
2 acres of leased land, which we produce
3 cattle, grain, and certified (pure) seed.

4 We are concerned about the
5 environmental impact of this proposed route
6 to the land, air, and water. The fires
7 resulting from the DM&E Railroad passing
8 through our areas of grassland, breaks and
9 shrubbery has had a severe impact on our
10 property. From 2/09/87 to 10/11/95, a period
11 of about eight years, there were in excess
12 of 160 documented fires caused by the DM&E
13 Railroad. There were many more inside their
14 right of way that are not included in this
15 county.

16 Wildlife was killed and displaced.
17 Our entire ecosystems were negatively
18 impacted, including issues related to topsoil
19 retention, runoff and drainage. A great
20 amount of time was used in fighting those
21 fires by both our family, and our communities
22 local volunteer fire departments. We are

1 fearful that with a fire record like this
2 caused by one train a day, or one every
3 second day, that the fire threat will be
4 greatly increased as 30 to 37 coal trains a
5 day begin to move through our area.

6 We do not favor any of the
7 alternative routes A, B, C or D. Each of
8 those alternatives ends up going through the
9 same place, through our ranch property.
10 These routes close off access to over 500
11 acres of farm and ranch land.

12 MS. NIXON: One minute.

13 MR. BIELMAIER: In crossing the
14 Interstate 90 highway, we've been told that
15 it will create a 38-foot bank buildup with a
16 one-degree slope in building the bridge. The
17 result of this would be like putting up a
18 curtain in front of my home preventing any
19 pleasant view into Wall or my lower rancho.

20 There would be greatly reduced
21 enjoyment of our property location, including
22 economic and personal impact to our property

1 and family. The soot and noise pollution of
2 a train every hour or less leaves no
3 consideration of property ownership, and
4 disregards the needs and welfare of a family
5 ranching business that has existed
6 since 1929.

7 We are concerned about a private
8 railroad company who may serve their owner's
9 needs. We have seen no commitment or
10 guarantee from this organization who, at a
11 minimum, must guarantee in writing to serve
12 all agricultural transportation requirements
13 as needed, when needed, by the people who are
14 being asked to give so dearly to allow this
15 plan to create their own 1,000 mile super
16 rail highway. With the intense scheduling
17 demands on the coal trains, when would they
18 have time to stop and get a grain train or
19 serve the agricultural needs of our
20 communities along the way?

21 MS. NIXON: John Maginot.

22 MR. MAGINOT: My name is John

1 Maginot. I'm Vice President of
2 Transportation for American Colloid Company.
3 I've been employed at American Colloid for
4 over 23 years and been involved in the
5 transportation of our products throughout my
6 employment. American Colloid Company was
7 originally incorporated in South Dakota
8 in 1924 as the bentonite mining and
9 manufacturing company. Our company was --
10 the name was changed to American Colloid
11 in 1927. We currently operate four
12 production facilities in Wyoming, and one in
13 South Dakota.

14 Throughout this two-state area, we
15 employ over 325 people. Last year, we
16 shipped over a million tons of bentonite clay
17 by the railroads from this two-state area.
18 These rail car shipments go, not only to our
19 customers here in the states, they also go to
20 our own blending and packaging facilities in
21 the states and to various ports so that they
22 can be exported to customers around the

1 world.

2 American Colloid Company depends on
3 reliable rail service to allows us to remain
4 competitive in a global market. Without
5 reliable transportation by the railroad, we
6 think that our business will deteriorate.
7 We're very concerned about the long-term
8 viability of the railroad if the DM&E is not
9 allowed to proceed with their project.

10 The DM&E has stated that funds
11 through this project will allow them to
12 upgrade their existing trackage to improve
13 safety across their system. This improved
14 infrastructure will allowed our company to
15 remain competitive on a global basis.
16 Therefore, American Colloid wants to go on
17 record as supporting the DM&E in their
18 construction project, and we hope that you
19 will see to it that they are allowed to do
20 so. Thank you.

21 MS. NIXON: Marvin Kammer.

22 MR. KAMMER: I'm Marvin Kammer.

1 I'm out here in Meade County, and my family
2 has been here since the 1880's. We've
3 ranched and raised children here, and I think
4 we have probably been an asset to the
5 community. Some years back on the east bank
6 of the Missouri River, there was a big ditch
7 started to provide irrigation in the eastern
8 part of the state. It was a big project sold
9 to a lot of people. It's kind of the same
10 smoke that's being sold to a lot of people
11 here. It failed. It never went through.

12 But in the process, a lot of people
13 were hurt. A lot of land was tore up and
14 damaged. You people who think you're going
15 to get railroad transportation out here have
16 got another thing coming without a written
17 agreement. No train should -- no work should
18 start on a track until those agreements have
19 been signed and sealed. None.

20 (Applause)

21 MR. KAMMER: Because all you are
22 doing is aiding the further destruction of a

1 community that's help make you what you are.
2 It's immoral. It is immoral to look at a
3 dollar and not see from whence it comes. On
4 top of that, we have ignored the owners of
5 the land by treaty, the Lakota people. I, as
6 a white rancher, support that contract.

7 (Applause)

8 MR. KAMMER: We have gotten 30 days
9 here to make a statement on this whole
10 outfit. It's plumb full of irregularities
11 and undocumented assumptions. You can take a
12 shotgun and shoot all kinds of holes through
13 it. You have to start over. They need
14 another 180 days. There's over 2,000 pages
15 there. Now, in the 30 days, that means if
16 you're going to devour it, you're going to
17 have to take and go through over 70 pages a
18 day.

19 MS. NIXON: One minute.

20 MR. KAMMER: It's impossible. Let
21 me say this: If this railroad is so -- if
22 there's a railroad so important to this area,

1 and I think it has a place, then let's
2 nationalize the existing line and use it, and
3 bring it up-to-date, bring it up to par, and
4 you people will still have your service and
5 good service. Leave Mr. Schieffer with his
6 pipe and dreams and those investors who are
7 in Scotland and England, let them smoke their
8 own dope.

9 This is our land. This land
10 belongs to the people. You people living in
11 these towns had better look good and hard at
12 what you're supporting. There isn't going to
13 be a grain service unless you've got
14 mile-long sidings to put 110 cars on them and
15 the terminals to service them. Who's going
16 to pay for it? Who's -- what am I going to
17 tell my grandchildren when they see the
18 terrible waste that this has caused? Thank
19 you.

20 MS. NIXON: Is Rick Johnson here?
21 Can I just make sure that folks -- I've got
22 about three names where I'm not -- it's not

1 checked in here. Make sure that if you
2 haven't signed in, you do that before you
3 leave, because that is our record of who's
4 attended the meeting.

5 MR. JOHNSON: Thank you. My name
6 is Rick Johnson. I have a business in Wall,
7 and I'm also a farmer from Quinn. Our
8 residence is at Quinn. We utilize rail
9 service primarily to take care of a
10 fertilizer business, and it would be very
11 difficult if we had to use trucks to service
12 our needs during the peak season. Although
13 we do have several trucks which we utilize, I
14 speak in support of the proposed project to
15 accomplish several things. To save our rail
16 service. As stated, the rail from Wall to
17 Pierre is in very tough shape. Without any
18 kind of an expansion at all, we would have a
19 very difficult time continuing that service.
20 We probably would have none.

21 Another thing it would allow us to
22 do is serve new markets with at value

1 products. As stated earlier, it will save on
2 highways. It takes about one train to
3 equal 400 trucks. It would be nice to see
4 economic development instead of economic
5 decline. But as Representative Lynch said, I
6 think there should be the stipulation, as
7 many other people spoke here this evening,
8 that we would like to know that they'll haul
9 our products. That's why I support it.

10 On our farm, we produce
11 approximately 125 truckloads of grain every
12 year, give or take, depending on the year
13 that we have. It would take nearly 42 weeks
14 a year for one truck to transport that much
15 grain to one of our markets that we go to in
16 Fremont, Nebraska. It would cost
17 approximately 33 to 50 percent more money in
18 freight to move that with truck versus rail.
19 That is an economic impact..

20 I sincerely hope the DM&E can
21 rectify some of these major concerns with all
22 the landowners and respect their needs and

1 requirements, because that's very important.
2 But it's also important to me and to our
3 community that this service remain, because
4 it's vital to our --

5 MS. NIXON: One minute.

6 MR. JOHNSON: -- communities, as
7 well as our entire state.

8 MS. NIXON: Okay. Sam Clauson.

9 MR. CLAUSON: My name is Sam
10 Clauson. I'm the South Dakota chapter of the
11 Sierra Club Chairman. I live in Rapid City.
12 I spent most of my adult life in western
13 South Dakota. On behalf of the Sierra Club,
14 I want to say that we're opposed to the
15 entire DM&E expansion project, not only
16 because of the reasons that many of our
17 fellow ranchers and friends have said; but
18 also, we believe that the treaty issues of
19 the Lakota people have not been met, and this
20 would be a further violation of those
21 treaties.

22 As to the EIS process, I do thank

1 the STB for granting a 90-day comment period
2 rather than 45. But as a lot of people have
3 said previously, that's really ridiculous
4 when we've got a document that took two years
5 for you to be preparing, and we are asked to
6 comment on it in 90 days. If anybody has any
7 doubt about that, just start reading through
8 this and you'll see how difficult it is to
9 understand.

10 We deal with a lot of EIS's. We go
11 through lots of them every year, we've looked
12 at them. This is, by far, the most complex
13 that we've ever seen. With all the
14 duplications and all of the cross-references
15 and so on, it's almost impossible to
16 understand what you're reading, unless you go
17 over it three or four times. Most of us
18 don't have time to do that.

19 Similarly, the application for
20 the 404 Permit that the Corps of Engineers
21 has in their hands right now, we've asked the
22 Corps, since it is a document that right now

1 calls for a -- and has to be answered by
2 November 28th, that they extend that time
3 period and also get copies out to the parties
4 involved. Right now it's in libraries, and
5 it's almost impossible to try and check it.
6 You can't check it out. You can look at it.

7 MS. NIXON: One minute.

8 MR. CLAUSON: And -- pardon? Oh,
9 one minute. Okay. We also reserve the
10 right, of course, to comment, and we will
11 comment in great depth later on. We are --
12 one of the things that is really interesting
13 in the alternatives is that it was so easy
14 for the writers to find things that were good
15 about Alternative C and how quickly,
16 Alternative A, the same things were rejected.
17 DM&E is a private company. Why don't they go
18 after the same kind of financing the rest of
19 us have to do, instead of asking the
20 taxpayers and the landowners to pay for it.
21 Thank you.

22 MS. NIXON: Dwight Flatt.

1 MR. FLATT: Thank you. My name is
2 Dwight Flatt. I'm here this evening on
3 behalf of Golden West Telecommunications,
4 speaking in support of the Dakota, Minnesota,
5 and Eastern Railroad's construction
6 application. Golden West Telecommunications
7 is a member owned cooperative that serves
8 much of central, western, and southwestern
9 South Dakota, with local telephone, long
10 distance, and Internet service; and in some
11 instances, cable television service. Our
12 cooperative service to farmers and ranchers
13 in small towns that, for the most part, rely
14 upon the farm and ranch economy for their
15 survival.

16 The actions supporting the DM&E
17 project was recently approved by a
18 vote 11 1-1 of our 13 member board,
19 recognizing that the DM&E faces many of the
20 same challenges as our own company. Golden
21 West has, over the past several years,
22 invested several millions of dollars in

1 building a redundant fiber-optic network
2 capable of carrying large quantities of
3 voice, video, and data tracking. Even with
4 that highly reliable, high tech, and high
5 capacity infrastructure, there's no guarantee
6 that our company will survive into the
7 future. But without that infrastructure,
8 it's almost a certainty that it would
9 ultimately fail.

10 We have those same concerns about
11 the survivability of rail service in western
12 and central South Dakota, and the economic
13 impacts its loss would have on our farmers,
14 ranchers, and small businesses if the DM&E is
15 not able to expand the amount of traffic that
16 it can carry. Just as we won't be able to
17 continue to attract new customers in the
18 future with slow dial Internet access, the
19 DM&E won't be able to keep, let alone attract
20 customers with rail service that travels
21 across portions of South Dakota at near
22 single digit speeds.

1 I would say ditto to some of the
2 comments raised by Rick Johnson, in that the
3 railroad has to rectify the concerns of the
4 landowners. I think there has to be
5 guarantees that they will continue and have
6 as a priority the shipment also of
7 agricultural goods and services. In filing
8 these comments, the Board of Directors does
9 not pretend to speak on behalf of all of its
10 members.

11 MS. NIXON: One minute.

12 MR. FLATT: In fact, sympathizes
13 with many of the land and environmental
14 concerns expressed by those individuals in
15 groups who stand in opposition to the DM&E
16 expansion. We do, however, believe that
17 future long-term economic development depends
18 not only upon the good communications
19 infrastructure and interstate highway system,
20 but also upon the availability of reliable
21 and affordable rail service.

22 MS. NIXON: Is Ned Westfall here?

1 Don Quinn? Is it Marvin? Marvin Kern.

2 Marvin and Ruth Kern.

3 MR. KERN: I'm Marvin Kern. I live
4 in Provo. I'm from South Dakota. Mailing
5 address is Provo. I'll read this and then I
6 want to comment. First of all, I'm in favor
7 of Alternate A, the no build alternative. I
8 also reserve the right to add more comments.
9 Before anyone promotes DM&E, they should know
10 what it is to live next to a railroad like I
11 do. I live within 1,000 feet of the
12 Burlington Northern. Burlington Northern was
13 there before my father homesteaded.

14 In the past 25 years, Burlington
15 Northern has been hauling coal. The railroad
16 crossing is terrible. They do not maintain
17 them. If you think DM&E will do any
18 different, you're wrong. We cross that
19 crossing at three miles an hour. Three miles
20 an hour. If you think I'm stretching it,
21 come try it. The honking of the horns -- I
22 was talking on the telephone to a neighbor

1 and he says, "Hey. I can hear that train."

2 It picked it up on the telephone.

3 In South Dakota, the BNSF has two
4 overpasses; one in Edgemont, and one out
5 there in what used to be Igloo. They were
6 built with taxpayer's expense. If the
7 crossing is blocked, you may have to travel
8 four, five miles to find another crossing to
9 get across, or sit there and wait. You may
10 wait an hour or an hour and a half because
11 they're country roads -- county roads, and
12 they will not -- they just sit there and wait
13 for you.

14 To cross with livestock, you
15 practically have to get a permit. Now, I
16 don't mean in writing. I mean, you better
17 call them and say, "I want to cross with some
18 livestock." Laura Stern is sitting over
19 there. She knows what it is. You will have
20 to get -- they'll tell you how long and when
21 you can cross. You just don't go down there
22 and cross the thing.

1 Up there, there's a long siding.
2 You can put two of these coal trains on there
3 at one time and it will be a 120-car train to
4 a car -- a train. They'll just sit there
5 while three trains come from another
6 direction and there you sit while that's
7 going on.

8 I want you town people, before you
9 promote this, to come down there and live
10 near us for about a week and see what the
11 hell we put up with.

12 (Applause)

13 MR. KERN: Occasionally there's
14 coal dust. They start fires.

15 They do not fight them. They do
16 not put out a fire. Oh, boy. I'm running
17 out of time here.

18 MS. NIXON: You've run out of time.
19 You're now cutting into your wife's time.

20 MR. KERN: Is the Burlington
21 Northern beneficial to me? No. Now, this is
22 personal. If you want to rebuild this line

1 from Rapid City east, go ahead. Don't foul
2 us up down there. Leave us alone.

3 MS. NIXON: Ruth Kern.

4 MRS. KERN: I am in favor of
5 Alternate A, the no build alternative.
6 Alternate A. DM&E Railroad is not needed.
7 Burlington Northern Santa Fe Railroad and the
8 Union Pacific Railroad are already hauling
9 coal from Wyoming at 70 percent more or less
10 capacity. DM&E plans to build a railroad
11 across western South Dakota at the expense of
12 the ranchers, dividing their property from
13 water and going through hay fields so DM&E
14 can upgrade their worn out private railroad.
15 A DM&E car just sitting fell off their track.

16 I am a rancher's wife, second
17 generation, ranch established in 1909, and
18 live within a quarter mile of the mainline of
19 the coal hauling Burlington Northern Santa Fe
20 Railroad. The trains honk day and night
21 noise, difficult to cross with livestock,
22 plus blocked crossings. South Dakota

1 law 49-16A-119 allows trains to block a
2 crossing for ten minutes for emergency
3 vehicles. By that time, my house will have
4 burned down and I'll be dead. Nothing about
5 this blocking the crossing. I have seen it
6 blocked for hours.

7 DM&E will not pay any taxes until
8 the construction is completed. Take the
9 construction -- take the construction -- the
10 cost of construction off their taxes. They
11 may consider a backhaul of waste of some
12 kind. I spent ten years keeping out-of-state
13 waste in South Dakota. Will DM&E control
14 obnoxious weeds? Ranchers have to. If the
15 railroad doesn't control them, they spread to
16 ranchers' property.

17 How can the STB issue a DEIS when
18 DM&E doesn't give an exact route? The DEIS
19 is incomplete and should be withdrawn until a
20 complete document can be prepared. People
21 here in this area are in private enterprise,
22 putting up hay, looking after cattle, and

1 trying to make a living. They don't have the
2 short -- they don't have the sort of time to
3 read this lengthy DEIS. More time is needed.

4 MS. NIXON: One minute.

5 MRS. KERN: Please extend the
6 deadline. I reserve the right to make future
7 comments.

8 MS. NIXON: Rod Sudbeck. Okay.
9 Margery Fish.

10 MS. FISH: My name is Margery Fish,
11 and I am representing the Donald and Margery
12 Fish family ranches of Oral and Buffalo Gap.
13 I am also representing the Philip Englebrecht
14 at Buffalo Gap, which these ranches have been
15 in our family for over -- since the 1800's.
16 We are a second and third generation ranch.

17 Each ranch has existing DM&E rail
18 line running through it for a little over one
19 mile to approximately six miles, which would
20 have an impact if Alternative D was selected.
21 Alternative A will impact each ranch because
22 existing -- the existing system has been left

1 to deteriorate and profits are used
2 elsewhere. Alternative B and C divide both
3 ranches.

4 My main concern at the present time
5 is the limit given to us to respond. I am by
6 no means an expert at reading the volumes of
7 material we are confronted with. In the
8 short time I had to look at some of it, I
9 found discrepancies and slammed information.
10 I had trouble locating the number of
11 questions I had. The charts were hard to
12 read and I was not familiar with -- and if
13 one was not familiar with the land, they
14 would not get the full impact of the subject
15 matter being displayed.

16 I was very displeased with the maps
17 used. They were inadequate and antiquated.
18 They do not show that the closeness of the
19 current DM&E route to the proposed Route C.
20 Why is the existing corridor acceptable
21 through Minnesota and South Dakota, and then
22 when it gets to Wall, it becomes

1 unacceptable? Is this explained in the DEIS?

2 The map does not show that C
3 Alternative passes through the middle of
4 Philip Englebrecht's irrigation unit. The
5 land has been in our family since the 1800's.
6 When the effort was made to move the route a
7 quarter of a mile, left with the assurance
8 that it would -- he was left with the
9 assurance that it would be feasible. But the
10 map and the DEIS shows C going right through
11 the middle, and no indication that the ground
12 was irrigated or wetlands.

13 The map they sent us by DM&E showed
14 two routes crossing one corner of our Oral
15 Ranch. When I looked at the DEIS map, the
16 Alternative C cut through the middle of our
17 ranch, cutting headquarters off most of the
18 rest of the range. We don't feel all
19 alternatives were fairly addressed as to cost
20 and impact. C runs right along beside the
21 national grasslands over the same tributaries
22 to the Cheyenne River as Alternative B.

1 B is shown to have more impact
2 because it had 2,516 acres of national
3 grasslands and 51.9 miles of wetlands. C had
4 less impact with 1,886 acres and 48.5 acres
5 of wetlands. Why are we not -- why do we not
6 deserve the same protection as the Forest
7 Service? Please extend our time so that you
8 can have more time and we'll have more time
9 to consider other alternatives, such as
10 providing aid to the DM&E to haul light
11 freight. Please consider other alternatives.
12 Thank you.

13 MS. NIXON: Thank you. Mark
14 Kirkeby. Is Mark here? Jim Doolittle.

15 MR. DOOLITTLE: Good evening. My
16 name is Jim Doolittle. I represent Black
17 Hills Community Development, Incorporated.
18 This is a regional economic development
19 organization that probably has more directors
20 representing 13 communities ranging from
21 Belle Fourche to Edgemont, and almost all of
22 the communities in-between, including Rapid

1 City.

2 The Board of Directors supports the
3 proposed rail line construction for the
4 following reasons: The project will have a
5 significant economic impact for western South
6 Dakota and eastern Wyoming. The massive
7 construction project will infuse millions of
8 dollars into the economy and employ hundreds
9 of people throughout the course of the
10 construction.

11 This is particularly important --
12 or this could lessen the severity of some
13 recent economic tragedies, such as the
14 Homestake Mining closure announcement in Lead
15 in September, in which in the next 16 months
16 there will be 400 good jobs lost in the
17 region; as well as a recent shutdown at Pope
18 and Talbot Sawmill in Newcastle, Wyoming. I
19 think we've heard tonight of some, you know,
20 potential other businesses that without good
21 rail service, could face the same dilemma.
22 There's an urgent need to replace these kinds

1 of jobs, mining, timber related, and others
2 in the Black Hills region.

3 Secondly, the proposed rail line
4 construction will create a wide array of
5 opportunities for local residents. These
6 business opportunities could greatly
7 diversify the economy and help sustain and
8 strengthen the region. Third, the long-term
9 effect of more permanent jobs for the region
10 will expand the tax and business base. Thank
11 you for doubling the amount of time for
12 public comment, and I recommend that this
13 process move forward in a timely fashion.
14 Thank you for your time.

15 MS. NIXON: Okay. Bob DeMersseman.

16 MR. DEMERSSEMAN: Thank you. I'm
17 Bob DeMersseman. I'm president of the Rapid
18 City Economic Development Partnership, which
19 is a partnership of businesses in the Rapid
20 City area, the City of Rapid City, and
21 Pennington County. I speak in support of
22 Alternative C, and would ask that the Surface

1 Transportation Board move as quickly as
2 possible to reach a conclusion to this issue.

3 I speak in support for two
4 principal reasons. One, that Alternative C
5 will prove the long-term viability of a very
6 important rail service to western South
7 Dakota and an important component to our
8 overall transportation needs. Two, it
9 provides a new dynamic, a new perspective in
10 a way to view economic development in an area
11 that has here before been landlocked.

12 Our only opportunities exist with
13 those industries that do not serve large
14 markets. We feel that with an improved rail
15 system, added viability, that these things
16 will be reconciled and we will be able to
17 continue to improve the economy and provide
18 quality jobs for people in western South
19 Dakota. Thank you.

20 MS. NIXON: Chuck Lien.

21 MR. LIEN: Hi. I'm Chuck Lien, an
22 owner of Pete Lien and Sons, a rock quarry on

1 the DM&E Railroad located northwest of Rapid
2 City. We've been serving South Dakota and
3 the four surrounding states for 55 years.
4 I'm here in support of DM&E expansion and the
5 upgrade of the railroad through South Dakota.
6 We endorse DM&E and their efforts and plans;
7 and we firmly believe it will do for South
8 Dakota in railroad terms what I90 did for
9 South Dakota in highway terms. We believe it
10 is best for South Dakota and it will be an
11 asset for our companies and many other
12 businesses, farmers, ranchers. We encourage
13 prompt approval of DM&E plans. I appreciate
14 the opportunity to appear before you and
15 thank you for your consideration.

16 MS. NIXON: Okay. Is Jim Rarick
17 here? Jim Lampley? Okay. Richard Krull?
18 People are leaving. Owen Emme? Okay. Pete
19 Birrenkott. Oh, I'm sorry. Owen.

20 MR. EMME: My name is Owen Emme.
21 I'm with Summit Construction Company here in
22 Rapid City. Our company has been in business

1 since 1928 and have -- and we firmly agree
2 with the DM&E and hope that you will actively
3 support this and bring it to a conclusion.

4 One of the things that I picked up
5 in the EIS was that in Custer and Pennington
6 and Fall River County, there will be \$77
7 million spent in wages for the construction
8 of this project. To me, the size of this
9 project in the state of South Dakota will be
10 the biggest dollar volume event that ever has
11 happened to the State of South Dakota. I
12 think it can do nothing but improve the
13 state, and eventually, it will improve all of
14 our lives. Thank you. I'll turn in my
15 written comments.

16 MS. NIXON: Okay. Pete Birrenkott.

17 MR. BIRRENKOTT: My name is Pete
18 Birrenkott. I'm representing the Black Hills
19 Rail Shippers Association. Our group
20 represents over 90 percent of the active rail
21 shippers in the Colony line. A segment of
22 the DM&E Railroad is located in western South

1 Dakota. Our members mine, manufacture, and
2 process a wide range of products including
3 bentonite clay, cement, lime, wood products,
4 aggregates, iron, steel products, wheat,
5 wheat flour, and other grain products. We
6 understand our shipments are vitally
7 important to the success of the DM&E, and the
8 ultimate success of the DM&E is vitally
9 important to us and all the people employed.

10 Our group was formed in the
11 early 1990's to deal with the Chicago
12 Northwestern Railroad proposed abandonment
13 between Dakota Junction, Nebraska and
14 Grandmark. We supported the DM&E acquisition
15 of the Colony line in the early 1990's. When
16 the DM&E and the UP began discussions on the
17 Colony line, we strongly supported sale for
18 the DM&E in 1996. We have worked with the
19 DM&E to improve service in the line since
20 then.

21 The DM&E is responsive and a good
22 partner railroad to work with. They have

1 worked hard to make rail improvements on the
2 western end of their line. However, the
3 infrastructure that they inherited from the
4 previous owners have been allowed to
5 deteriorate through decades of deferred
6 maintenance. Our group is very familiar and
7 aware of the infrastructure and the
8 day-to-day railroad operational challenges.

9 We believe the long-term viability
10 of the DM&E is dependent upon the DM&E
11 obtaining STB approval for the Powder River
12 Basin project; as this is the vehicle which
13 will allow the DM&E to rebuild their existing
14 railroad. DM&E had given us their word that
15 if their coal line is improved, and we have
16 taken them at their word, our service will
17 not be diminished and will be improved.

18 What does this mean for the
19 communities in which the DM&E operates? It
20 means significant economic development,
21 thousands of new high paying jobs will be
22 created in the Dakotas, Wyoming, and

1 Minnesota. Additional tax revenue for our
2 state, a first-class railroad which will
3 allow us to compete. A rail service that
4 will rival motor carriers. Less pressure on
5 an already stressed state and federal highway
6 system.

7 MS. NIXON: One minute.

8 MR. BIRRENKOTT: An additional
9 capacity for our national rail system by
10 creating a new class one railroad for the
11 first time in more than 50 years. Simply
12 put, we can't let this opportunity pass us
13 by. We need this project to progress. We
14 ask the STB to expedite the process, as well
15 as provide a schedule for reaching a record
16 of decision on the DM&E application. This
17 will allow us to develop and execute our
18 business plans, which are heavily dependent
19 upon the future of rail service.

20 DM&E amplification has been pending
21 for almost three years, and the time has come
22 to take prompt decisive action to allow them

1 to rebuild their railroad and ensure viable
2 long-term competitive rail transportation for
3 this region of the country. We support such
4 action, as it is important for the future
5 growth of all commerce in South Dakota.
6 Thank you.

7 MS. NIXON: Dennis Pope.

8 MR. POPE: I'm Dennis Pope. I'm
9 the chairman for the Rapid City Area Chamber
10 of Commerce. Our chamber represents 1,400
11 members. We, as a chamber, have endorsed
12 this project since 1997. We would like to
13 see it move ahead. We see it as setting
14 tremendous impact, not only in the economic
15 growth, but also in stability of our economy
16 here in the western part of the state.

17 We do recognize the fact that there
18 are divided opinions, that there does need to
19 be further study, and that we do think that
20 some of this can be addressed during this
21 hearing process. We believe that it should
22 be addressed, and then this can proceed with

1 the technology that we have today in rail
2 services. So we do encourage you to proceed
3 as rapidly as possible to institute a very
4 viable economic benefit for all of western
5 South Dakota. Thank you.

6 MS. NIXON: Rob Sayler.

7 MR. SAYLER: My name is Rob Sayler.
8 I'm Chairman of the Rapid City Area Chamber
9 of Commerce Transportation Committee. The
10 Chamber's Transportation Committee has acted
11 as an advocate for numerous Rapid City area
12 transportation related projects, including
13 improvements to I90 between Haines Avenue and
14 I90, and the Heartland Expressway expansion
15 down in the state line, the southeast
16 connector, the southwest connector, and
17 improvements and expansion of service to
18 Rapid City Regional Airport.

19 It is the position of our committee
20 that the upgrade and expansion of rail
21 service proposed by DM&E will provide the
22 State of South Dakota with something that has

1 not existed here for more than 20 years, and
2 that is a world class rail service. This is
3 important for a variety of reasons. More
4 cost-effective and dependable transportation
5 of agricultural products from farm to market
6 and market to farm. A world class rail
7 system could attract numerous economic
8 development possibilities that would not
9 otherwise exist. The DM&E expansion will
10 create numerous employment opportunities
11 across the state of South Dakota with better
12 than average wages.

13 In closing, the Chamber of Commerce
14 Transportation Committee has supported this
15 project since it was first talked about back
16 in 1997, when it was assumed that it would go
17 through Rapid City. We are confident that --
18 oh, many legitimate concerns have been
19 expressed by the project's opponents this
20 evening. It is our hope that it would be
21 possible to address these concerns and still
22 fully build the project.

1 We are confident that both state
2 and federal regulators will ensure the least
3 intrusive impact of this project. We believe
4 that the proposed comment period provides
5 adequate time for public input. We urge the
6 STB to issue a permit for the preferred
7 route, Alternative C, as soon as possible.

8 MS. NIXON: Jim McKeon.

9 MR. MCKEON: I'm Jim McKeon. I'm
10 President of the Rapid City Area Chamber of
11 Commerce. Our chamber recognizes the
12 economic impact and potential to rebuild and
13 revitalization the DM&E will provide to the
14 public need in our area. To avoid
15 redundancy, let the record show dittos to the
16 positive economic comments that have been
17 stated so far, with particular emphasis on
18 Senator Ham's, Representative Derby -- and I
19 apologize. I forget the man's last name, but
20 Mr. Richard blank from the DM&E, an engineer.
21 He touched on a number of points that I was
22 going to talk about. Also, Mr. Jim

1 Doolittle.

2 Let me emphasize a couple of
3 points. Jobs have been talked about. We
4 have two phases of the jobs. One is in the
5 construction phase, and we're particularly
6 interested in that because it has potential,
7 if the timing is right, to help the Homestake
8 Mine closing; and also, at Pope and Talbot
9 that was referenced earlier. So we think
10 that's a significant portion that we would
11 like to push. Also, following the
12 construction jobs, we see there will be some
13 additional permanent jobs in the area.

14 The second area is the tax revenue.
15 Right now we see the tax revenue as important
16 to South Dakota. As you know, 60 percent of
17 our state budget basically goes to educating
18 our children. Any additional impact in that
19 particular area would be clearly beneficial
20 to us.

21 The next area I would like to talk
22 about is we are a rural state. We know that.

1 Some of our small towns are, in fact, drying
2 up and dying. We see this as a potential for
3 saving some of those towns and communities.
4 So basically we're putting folk back into it.

5 The tourism comment was made.
6 Tourism isn't talked about in the coal train,
7 initially. We look forward to the future
8 with a vision that the potential, once the
9 infrastructure is there, can create a whole
10 lot of other opportunities. So we're
11 basically looking at that.

12 Speaking of potential, I would like
13 to mention that the frontiers forging our
14 future, which is our Community Strategic Plan
15 developed and finalized in 1998. It took a
16 year to do it. It took about 2,000 people up
17 and down the Black Hills. They recognize the
18 importance of this. They had, under their
19 infrastructure, vision. Item number six is
20 the strategy they talked about.

21 MS. NIXON: One minute.

22 MR. MCKEON: Expand and improve

1 rail servicing. The last thing that I would
2 really like to talk about is the change
3 that's happening in our world today.
4 Globalization is actually upon us. But we
5 couldn't participate in globalization before.
6 We were too rural. We have the technology
7 now. State government has provided some
8 great opportunities for us. Local businesses
9 have done the same thing. But we don't have
10 the transportation we need to come to closure
11 with that.

12 Recently, China has been opened up
13 under the normal trade relations. That
14 provides 1.3 billion potential customers.
15 The railroad expansion could eventually lead
16 to that type of a market.

17 Finally, we appreciate the impact
18 and hardship some of our friends and
19 neighbors will experience from this project,
20 but feel the overall long-term benefits of
21 the public need warrants supporting and
22 improving this project. We strongly

1 recommend from the STB initial permit of the
2 preferred route, Alternative C, and bring the
3 comment period to a close on
4 January 5th, 2001. Thank you for your time.

5 MS. NIXON: Karen -- is it Poppe or
6 Poppe?

7 MS. POPPE: It's Poppe.

8 MS. NIXON: Hold on one second.
9 Okay.

10 MS. POPPE: My name is Karen Poppe,
11 and I'm a representative of the Wall Chamber
12 of Commerce. The comments that I have to
13 make this evening, I do not want to repeat
14 what's already been said by some of the Wall
15 folks. But as I looked at the comments by
16 the US Department of Agriculture in support
17 of the DM&E application and what they hope to
18 accomplish, I believe that the Chamber of
19 Commerce, when they decided to support this,
20 hope for the same things; and that was that
21 it would increase rail capacity, improve farm
22 income, and boost rural economic development

1 opportunities.

2 I would say that we have a business
3 community where we could support new
4 construction. If we had the switching yard
5 in Wall, that would be an asset to us. We
6 would support the bypass. It would be a very
7 positive addition to our community. We
8 happen to be a seasonal business. We know
9 how to do that pretty well. We look forward
10 to more year-round business, families moving
11 in, and being able to supply them also with
12 jobs in our community.

13 We realize there are some
14 differences and things to be worked out with
15 the farmers and ranchers and with people who
16 are concerned about the environment. As you
17 are able to talk to these people and
18 rectify -- and solve these differences, we
19 would hope that you will remember that the
20 best business deal is one that's good for the
21 people who own it, but also for the people
22 who are served by it and the people who have

1 worked for it. Thank you.

2 MS. NIXON: Okay. John Hames.

3 MR. HAMES: Thank you, ladies and
4 gentlemen. What a great country that we live
5 in that we can get together and talk about an
6 issue that's as emotionally charged as this
7 one is. We don't have to decide this with
8 our fists or with guns or violence. We can
9 talk about it. I think that we should
10 recognize that that's what this country is
11 about.

12 I'm here, first of all, as an
13 individual from Hot Springs. I'm, secondly,
14 here because I represent a part of our
15 chamber board which is called the Economic
16 Development Board. This is a group of people
17 that I want you to imagine for a second.
18 This is the local pharmacist, bankers, people
19 that own businesses like bakeries or possibly
20 gasoline stations.

21 We were neutral about this project
22 for a long time. We studied it. We thought

1 about it. We're now positive. I can't speak
2 for the chamber itself, but I can tell you
3 that the Chamber Economic Board is strongly
4 in favor of this and would ask that this
5 project be set on a schedule so that
6 businesses can plan around this as soon as
7 possible.

8 I'm also a member of the Edgemont
9 Chamber of Commerce. I cannot speak for the
10 Chamber, but I can tell you that if you've
11 telephoned many of the people on the chamber
12 at Edgemont, that they are strongly in favor
13 of this project for many obvious reasons. In
14 Fall River County, we have a declining tax
15 base. We have declining school enrollments.
16 We have not enjoyed the same economic
17 expansion over the last 25 years that's here
18 in Rapid City and other areas of our country.

19 We're really not in the same
20 position to make a decision about this
21 project that a lot of other communities are.
22 We really need this project to help us keep

1 our schools, to get us health care, and a
2 variety of other things that this project
3 will do for us. So that's what I have to say
4 as a member of the Economic Development Board
5 for the Chamber of Commerce in Hot Springs,
6 and as a member of the Chamber of Commerce in
7 Edgemont.

8 What I have to say as a man is
9 this, I think that many of you who are
10 opposed to this project are going to vote to
11 approve this project in the next few minutes
12 and in the next few weeks and in the next few
13 years because you have a set of car keys in
14 your pocket. When you walked into this room,
15 you had a reasonable expectation that these
16 lights would work. Do you think that energy
17 came to your car without sacrifices and
18 without inconveniencing people and without
19 taking land up? It did. Okay. This project
20 will be approved, as the second speaker said,
21 because it's the right thing to do. Thank
22 you.

1 MS. NIXON: Is Paul Schuchardt
2 here?

3 MR. HAMES: He's not here.

4 MS. NIXON: Okay. Dennis
5 Klostreich.

6 MR. KLOSTREICH: Hi. My name is
7 Dennis Klostreich. First and foremost --

8 MS. NIXON: Dennis, you need to
9 speak more into the microphone.

10 MR. KLOSTREICH: Okay. First and
11 foremost, I would like to say that I am an
12 ardent supporter of the PRB expansion
13 project; and I'm also a proud employee of the
14 DM&E Railroad. To me, the PRB expansion
15 project would immensely improve our current
16 mining and agricultural industry and their
17 potential aspects of central and southern
18 South Dakota, Minnesota, and Wyoming. The
19 project, without a doubt, will vastly improve
20 the region to market time quite considerably,
21 which, in turn, means compatibility and, of
22 course, many more jobs.

1 However, with an aging rail line,
2 it would be difficult to make rail
3 improvements on our existing rail -- existing
4 revenue. That is why I support the expansion
5 product. In its wake, it secures rail
6 service for many years to come. It secures
7 employment. Time and time again I have
8 witnessed abandonments of rail lines that are
9 torn up for the lack of revenue. If not torn
10 up, they are simply ran ragged to where the
11 latter option is not far off. In the shadow
12 of this option lays more vehicles on our
13 state highway systems and, in effect, a
14 burden on all of our taxes.

15 The expansion has, in my view, as
16 said before, a ripple effect upon the
17 communities, the states, and even the
18 country, in the manner of construction
19 companies, hotels, restaurants, stores, et
20 cetera, all along the line of this project.
21 People will directly and indirectly benefit
22 from the expansion.

1 MS. NIXON: Dennis, one minute.

2 MR. KLOSTREICH: One of those, in
3 particular, is the new consideration to train
4 passenger service, the length of the railroad
5 bringing in tourism revenue from a
6 perspective that hasn't been seen in 50
7 years. With the faster, safer, and more
8 reliable rail line, new industries could
9 appear up and down the rail line because of
10 the faster factory to market turnaround.
11 I'll end it there, I guess.

12 MS. NIXON: Thank you. Okay. Mike
13 Wordeman.

14 MR. WORDEMAN: Thank you. My name
15 is Mike Wordeman. I'm a South Dakota
16 businessman, developer, and a landowner. I
17 would ask this body of people tonight to
18 extend the time frame that has been put in
19 front of us. What little information I have
20 in the study demonstrates to me that the
21 study is inadequate, inaccurate, and
22 deceptive. Recommendation of this plan is

1 abusive. Unlike the opponents tonight, I'm
2 not prepared to talk about economic
3 development, but then again, I didn't think
4 that was on the agenda. Thank you.

5 MS. NIXON: Glen Reaser. Is Glen
6 here?

7 MR. REASER: Yes. My name is Glen
8 Reaser. My ranch is among the many wetlands,
9 wildlife, ranches, farms and businesses,
10 towns and cities that will be severely
11 impacted if this proposed new DM&E rail line
12 is built. I'm opposed to this project.

13 The proposed new rail line comes
14 off the existing rail line northeast of my
15 ranch near Milepost 31. It runs west through
16 the house where my son lives, and also
17 through a 48- by 80-foot calving shed that we
18 use in the spring for calving around 200 head
19 of cows. The right of way through our
20 buildings is 400 feet wide.

21 This also would destroy a 60-
22 by 90-foot shop, an older house, an older

1 three-car garage, an older shed, an open
2 shed, corrals, an excellent well, and render
3 useless because of the noise created by the
4 number of high speed coal trains passing
5 nearby; and an excellent shelter belt that is
6 about 250 foot wide by 320 foot -- 1,320 foot
7 long, and provides winter protection for our
8 livestock. It is also home to many
9 songbirds, pheasants, grouse, turkey, and
10 deer.

11 We have also been wintering
12 around 500 head of calves at this location.
13 When we sell them, they are loaded from the
14 corrals at this location. The noise and
15 traffic created by the coal trains would also
16 make this impossible to do. Beyond our
17 buildings, the right of way expands to 700
18 feet wide. According to a map provided by
19 DM&E, it involves about 1.67 miles of new
20 track and takes 92.45 acres of land.

21 You could not pick a worse place to
22 run this proposed rail line through our ranch

1 if you tried. The effect it will have will
2 be devastating. We have not come up with any
3 alternative places that would have the
4 shelter that this location has to care for
5 our livestock if this rail line is built
6 through our ranch and our land is taken.

7 In the Draft Environmental Impact
8 Statement, Volume I, page 2-6, it states
9 "engineers consulted with landowners to
10 identify alignment locations that would avoid
11 or minimize impact." In my case and many
12 other cases, I am aware of the only thing we
13 were informed of was where the proposed rail
14 line was going to go. No consideration was
15 given by DM&E to avoid or minimize the impact
16 by changing the route --

17 MS. NIXON: One minute.

18 MR. REASER: -- of the new line.
19 DM&E has plotted a route based strictly on
20 elevation. They have not shown a willingness
21 to move the route, regardless of the impact
22 to the landowner, the environment, or

1 wildlife.

2 Another thing, eminent domain.

3 There's nothing that I can find in there
4 mentioning eminent domain. I'd ask that the
5 comment period be extended to have hearings
6 in January of 2001, and extend the written
7 comment period to at least 180 days.

8 Another thing mentioned is in
9 Wyoming and western South Dakota, there would
10 be -- safety would have -- there would be no
11 significant impact. To me, this is
12 unbelievable. With 37 trains per day running
13 over a mile long at 49 miles an hour, this is
14 a train every 30 minutes. In my opinion, it
15 would have a very significant impact on the
16 safety of our area. Also, wetlands. They
17 pass through 3,200 wetlands. I guess I don't
18 think they should be allowed to do that.
19 Thank you for allowing me to testify.

20 MS. NIXON: Thank you. Cecilia Two
21 Bulls. Cecilia, are you here? Okay.
22 Shirley Marvin.

1 MS. MARVIN: Thank you. I, Shirley
2 Marvin, member of the Oceti Sakowin Treaty
3 Council and the Standing Rock Nation object
4 to the proposed DM&E project because the
5 Oglala Sioux Tribal government, under tribal
6 presidents John Steele and Harold Salway, and
7 the Black Hills Sioux Nation Treaty Council
8 have taken a strong opposition to the
9 construction of the DM&E Railroad.

10 However, nowhere in the EIS is this
11 mentioned. This opposition is not expressed
12 at all in the EIS. We've looked for it were
13 submitted. They weren't addressed in the
14 EIS. There was only one statement in there
15 that a resolution was presented from these
16 organizations. It did not state that this
17 resolution opposed this railroad. To me,
18 when you do not tell what a statement --
19 what's contained in the statement, a nice
20 word for it is an untruth. That's the way I
21 see it.

22 The Oceti Sakowin Oyati have

1 considered the Black Hills sacred for 10,000
2 years. Wind Cave in the Black Hills is where
3 we began as an Oyati. In 1851 and 1868,
4 treaties were signed with the federal
5 government and with the Lakota, Dakotah, and
6 Nakotah Nations. At the time, we believed we
7 were dealing with honorable men. Men of
8 integrity. Gold was discovered, and greed
9 ignored the treaties. Other minerals were
10 discovered. Not in the Black Hills maybe,
11 but in our treaty protected land. The coal
12 that DM&E proposes to haul is in our treaty
13 land.

14 MS. NIXON: Shirley, one minute.

15 MS. MARVIN: Part of our mineral
16 rights reserved for us in our treaties.
17 Prior dealings through treaties and laws that
18 allow theft of treaty lands has not generated
19 any trust in the white man or any of their
20 trust processes. Consultation does not
21 guarantee honesty and integrity.

22 I think in many cases, in many

1 statements that we've heard here this
2 evening, it might do you well to remember
3 that integrity -- is there integrity in this
4 process? I haven't seen any yet, because of
5 the untruth that we've seen in the EIS. So
6 that leaves me to believe that we better all
7 take another look at this.

8 You talk about inconveniences,
9 inconveniences caused by acid rain.
10 Inconveniences cost you your family. We
11 don't know yet the full extent of what acid
12 rain does. We do know it does cause some
13 types of cancer, and that's a little
14 convenience over the dollars are concerned.
15 I reserve the right for future comment.

16 MS. NIXON: Thank you. Howard
17 Eagleman.

18 MR. EAGLEMAN: Good evening. I'm
19 Howard Eagleman, member of the Oceti Sakowin
20 Treaty Council and the Standing Rock Nation
21 object and oppose the DM&E proposal for their
22 railroad destruction. To the Oceti Sakowin

1 Oyati, our Black Hills are sacred to us.
2 These hills are our medicine chest. This is
3 a place where we come and return to heal
4 ourselves, spiritual and physical.

5 Our Black Hills also contain all of
6 our natural foods and herbs. I fail to see
7 the importance of this railroad to exist then
8 compared to the historical spiritual
9 significance of the Black Hills. For these
10 reasons, I oppose DM&E, and reserve the right
11 for future comments on this issue of the
12 DM&E. Thank you.

13 MS. NIXON: Imogene Taken Alive.

14 MS. TAKEN ALIVE: Good evening
15 everyone, and thank you to allow me to say a
16 few words on behalf of this railroad. My
17 name is Imogene Taken Alive. I'm a member of
18 the Oceti Sakowin Treaty Council of the
19 Standing Rock Nation upholds the DM&E
20 proposed project because the geology of the
21 land surface upon which the DM&E line is to
22 be built along the Cheyenne River is entirely

1 pure shale. It will share -- I'm sorry. It
2 will not only be a danger to trains
3 travelling along this line if it can be
4 completed, but it will be a danger in the
5 initial construction of processing. The Red
6 Shirt area must be preserved and protected.
7 Its environmental and historical significance
8 cannot be understated. I reserve the right
9 to make future comments on the DM&E proposed
10 project. Thank you.

11 MS. NIXON: Denise Redwater.

12 MS. REDWATER: Hi. My name is
13 Denise Redwater.

14 MS. NIXON: Denise, you need to
15 come much closer to the microphone.

16 MS. REDWATER: Okay. Can you hear
17 me now?

18 MS. NIXON: Even closer.

19 MS. REDWATER: My name is Denise
20 Redwater, and I'm speaking on behalf of
21 myself and my daughter, Wayontv (?). We're
22 members of the Oceti Sakowin Standing Rock

1 Nation, and we strongly recommend Alternative
2 A, the no action alternative or no building
3 of the Powder River expansion project
4 submitted by the Dakota, Minnesota and
5 Eastern Railroad for the following reasons:

6 One, the last pristine prairie
7 wilderness areas and the Buffalo Gap
8 Grasslands, the Badlands National Park, and
9 Wind Cave National Park in the Black Hills;
10 including endangered species that live in the
11 Cheyenne River Valley are all irreplaceable
12 national treasures and must be protected from
13 the adverse environmental impacts of air
14 pollution, acid rain, and fire caused by the
15 movement of up to 37 coal trains per day.

16 Two, the building of the new line
17 through the Cheyenne River will have direct
18 adverse environmental effects caused by air
19 pollution, acid rain, and fire upon 3,000
20 plus residents in the Pine Ridge Indian
21 Reservation.

22 Three, the existence of a legal

1 question of land ownership of all land in
2 western South Dakota, as this area was set
3 aside for absolute and undisturbed use and
4 occupation by the Great Sioux Nation under
5 the Fort Laramie Treaties of 1851 and 1868.

6 Four, historical sites on the
7 southern portion of the Cheyenne River are
8 beginning to emerge and massacre sites will
9 be destroyed. Portions of our history and
10 depravation on our Oceti Sakowin by the
11 Wasicu will be hidden. At the time these
12 massacres occurred, the Oceti Sakowin were
13 living under the peace afforded to them under
14 the Fort Laramie Treaty of 1868.

15 Five, this DM&E project will have
16 far-reaching --

17 MS. NIXON: Denise, one minute.

18 MS. REDWATER: -- far-reaching
19 effects on the Archeological Protection Act,
20 Native American Immigration Act, Historical
21 Preservation Act, and the Fort Laramie Treaty
22 of 1868, which was the Peace Treaty.

1 Six, destruction and obliteration
2 over the Black Hills where the railroad will
3 make these areas more assessable to vandalism
4 and malicious destruction. Seven, paleon --
5 paleontological.

6 Sites will be -- which are still
7 undiscovered. The Lakota, Dacohtah Nation
8 have lived on this land thousands of years
9 without tearing up mother earth and defacing
10 the surface with railroads, mining, and dams,
11 and other forms of defacement and
12 destruction. For these reasons, I oppose
13 DM&E Railroad. I reserve the right to make
14 further comments in the future. Also, to ask
15 that you extend your time for another 180
16 days. Thank you.

17 MS. NIXON: Phillip Farrell. Is
18 Phillip here?

19 MR. FARRELL: Good evening. My
20 name is Phillip Farrell. I'm a member of the
21 Oceti Sakowin Treaty Council. I'm from
22 Wakpala, South Dakota, and I'm in total

1 support of Chief Oliver Red Cloud and all the
2 people he represents. I'm also in total
3 support of the Black Hills Treaty Council,
4 and I'm in total support of the Oceti Sakowin
5 Treaty Council from the Oglala Oyati. I had
6 a prepared statement also, but I had a
7 misunderstanding, so I turned in to a lady
8 out front here in the hall.

9 But before I got to speak, I
10 listened to a gentleman talk about a house
11 that's about 30 percent underground. The
12 community I come from is -- has basements. A
13 railroad was built very close to my
14 community. We have a small range of hills
15 between the railroad and our housing area,
16 and our community center sits a little bit
17 beyond that. Maybe about 300 yards away.

18 But I sat in there as a security
19 guard throughout the night. When trains pass
20 through, which is about once a week or maybe
21 every ten days they go through, but you can
22 feel that community center vibrating. It has

1 a very devastating effect on the house and
2 all the buildings in the area. All fastening
3 screws, nails, glue, whatever is used, they
4 come apart. They loosen up. The walls in
5 the basement, they crack. The cracks get
6 bigger and wider, and pretty soon they start
7 caving in.

8 The housing area is not anywhere
9 from 100 yards to about 200 yards away from
10 the railroad. I don't know what kind of
11 effect it's going to have here on everybody
12 that's living in the Black Hills, and I don't
13 know how close their property is to the
14 railroad, but I'm hoping you can put a clause
15 into this DM&E. People, make them put a bond
16 up that guarantees the rebuilding of your new
17 home every time they destroy your home. We
18 were unable to do that for whatever reason.

19 But, you know, our homes are
20 destroyed. They said they were brand new.
21 They called them HUD housing, but it's -- now
22 their houses are falling apart. Worthless.

1 I say that because I'm also represented by
2 people on the Standing Rock Housing
3 Authority. Thank you very much.

4 MS. NIXON: Mary Jane Tlokasin.

5 MS. TLOKASIN: I am Mary Jane
6 Tlokasin, a member of the Oceti Sakowin
7 Treaty Council of the Standing Rock Nation.
8 We do object to the DM&E Railroad
9 construction for the following reasons: The
10 Oceti Sakowin has cultural sites, massacre
11 sites where our people were murdered by the
12 Wasicu, as well as burial sites located in
13 proposed railroad construction areas. Your
14 reason for the desecration of these sites is
15 of little importance and necessity.

16 There are two existing railroads in
17 places which can provide the service you
18 desire. Where I live, in the Great Sioux
19 Nation up at -- is in South Dakota. We are
20 at both states, our reservation. There's two
21 abandoned railroads there, through South
22 Dakota and through North Dakota. They were

1 going to trucking, and so in the '60's and
2 late early '70's, they pulled up all railroad
3 ties, tracks. They were going to trucking
4 they said. They took that and jobs away from
5 a bunch of people. That land is useless.
6 Sander, a little oil.

7 So, you know, I don't believe in
8 this new DM&E Railroad that's going to be
9 built because it's temporary for jobs. When
10 it gets finished building, there's only going
11 to be one engineer, and that's the one that's
12 going to be driving that train. Who else is
13 going to be working it? And --

14 (Applause)

15 MS. TLOKASIN: They talk about
16 electricity. We come from the Great Sioux
17 Nations from Montana down to Yankton to the
18 Nebraska border. We service electricity from
19 our water, the Missouri River. You're not
20 going to get a promised answer by people that
21 run the DM&E Railroad construction. Because
22 we've been trying to work with the Corps of

1 Engineers for years and years and years, and
2 we still haven't got an answer. Their
3 promises were broken.

4 (Applause)

5 MS. TLOKASIN: They come and tell
6 us, "Well, we can't answer you right now
7 because we got to go home to Congress and ask
8 them because we don't have the authority to
9 do that." I said, "Well, why did they send
10 me out here?" Some of them told me, "I was
11 born in the '50's, ma'am, so I don't know
12 what's going on with the Corps of Engineers."
13 They were engineers. They came to see us,
14 visit us.

15 But they're going to promise you to
16 build that railroad and give you the whole --
17 give you the moon. It's not going to happen.

18 (Applause)

19 MS. TLOKASIN: I know that. I feel
20 sorry for them because we go through that.
21 Like Phillip said, the basements are
22 cracking. When those trains go through, the

1 basements crack, the windows shatter, and
2 they shake everything. But do you think the
3 railroad company comes and fixes it? They
4 don't. So everything they do from now on to
5 decorum has to be in writing because they
6 don't keep their promises. Thank you.

7 MS. NIXON: Faith Taken Alive.

8 MS. TAKEN ALIVE: Boy, that's a
9 hard act to follow. I'm Faith Taken Alive.
10 My Lakota name is Dasom Chakoum (?). I'm a
11 member of the Oceti Sakowin of the Standing
12 Rock Nation. I oppose DM&E's proposed
13 construction of a new railroad line and
14 request that the permit be denied.

15 Lakota Attorney, Margo Gonzales,
16 states in an article in the Cultural Survival
17 Quarterly, Winter 1996, Aboriginal title
18 depends on the law of nations; not upon
19 municipal right. It recognizes the rights of
20 tribes as the rightful occupants of the soil,
21 with illegal, as well as, a just claim to
22 retain possession, exclusive use, and

1 occupation for a long time. Prior to the
2 loss of property by a tribe is sufficient to
3 establish original title. The Lakota
4 presence in the Black Hills, for at
5 least 10,000 years or more, would meet the
6 qualifications of a long time.

7 According to the United States
8 Constitution, Article 6, Section 2, "This
9 Constitution, and the laws of the United
10 States which shall be made in pursuance
11 thereof; and all treaties made, or which
12 shall be made, under the authority of the
13 United States, shall be the supreme law of
14 the land; and the judges in every state shall
15 be bound thereby; any thing in the
16 Constitution or laws of any state to the
17 contrary, notwithstanding."

18 "From the Fort Laramie Treaty of
19 April 26th, 1868. From this day forward all
20 war between the parties to this agreement
21 shall forever cease. The Government of the
22 United States desires peace, and its honor is

1 hereby pledged to keep it. The Indians
2 desire peace, and they now pledge their honor
3 to maintain it." We have complied. We have
4 complied. In our culture, we believe that
5 all things happen twice. I would like to
6 thank the cowboys for their opposition to
7 DM&E's new railroad. As in the cowboy and
8 Indian alliance --

9 MS. NIXON: One minute.

10 MS. TAKEN ALIVE: -- in Hells
11 Canyon, Honeywell was defeated, so shall be
12 the demise of DM&E. A word of caution. The
13 mysteries of our Lakota people are many and
14 sacred and the consequences are severe. Do
15 not disturb our lands, our culture, and our
16 burial lands any further. This night, this
17 day, I call upon the spirits of our Lakota
18 ancestors to stop DM&E in their tracks.

19 I reserve the right for further
20 comment on DM&E's proposed projects as a
21 member of the Great Sioux Nation. I ask the
22 panel members where, where is the Lakota

1 representative on this panel? Where is THBO?
2 Where is NEGRA? Where is NEPA? Where is
3 ARPA? This action, this hearing is
4 discriminatory to my people, to the Lakota
5 people. We are not represented again. Thank
6 you.

7 MS. NIXON: Can I check it? Is
8 Louie Dubray? Ed Whittle? Madonna
9 ThunderHawk? Harold Frazier or Harold
10 Senior -- or Victor Harold? Okay. The next
11 speaker is Jean McPherson.

12 MR. MCPHERSON: I'm Jean McPherson.
13 I live in Sturgis. I had no idea whether I
14 would say anything tonight. The first thing
15 I want to say is that, as far as I'm
16 concerned, if Alternatives B or C are
17 implemented, that must be done on a condition
18 that the concerns of the Native Americans are
19 dealt with first. Absolutely.

20 (Applause)

21 MR. MCPHERSON: The second thing I
22 want to say is, if I were you, I would be

1 embarrassed. I would be really embarrassed.
2 If country hicks, country bumpkins can find
3 the kinds of mistakes in your document that
4 they did, what does that say about you? If I
5 were you, I would seriously consider looking
6 for a job that pays a lot less. I am
7 embarrassed. I'm embarrassed as a citizen of
8 this country to have a document like that
9 come out in my name.

10 MS. NIXON: Sir, can I just ask,
11 you have to be a little careful. The court
12 reporter can't have loud sounds going on, and
13 I'd also like you to refrain from personal
14 attacks.

15 MR. MCPHERSON: Okay. I'm not
16 attacking anyone personally. I'm saying, as
17 entities of the government, a representative
18 of my government, if you put this document
19 out as a matter of public policy for people
20 to study it to determine how they would
21 respond and has that many errors in it, I
22 would be embarrassed.

1 MS. NIXON: Okay. I think you
2 should move on now.

3 MR. MCPHERSON: The next thing I
4 want to say is, my guess is that Dakota
5 Milling and the City of Wall and the
6 bentonite companies would be screaming at
7 you, asking, pleading for six more months if
8 their businesses were going to be impacted
9 potentially in the same manner that the
10 ranchers in the southwest are. I believe we
11 need six more months.

12 (Applause)

13 MR. MCPHERSON: The next thing.
14 The next to the last thing I would like to
15 say.

16 MS. NIXON: One minute.

17 MR. MCPHERSON: I would like to
18 address a comment that was made by Chuck Lien
19 and Owen Emme and Jim McKeon and so forth.
20 If you folks in Rapid City think this is such
21 a good deal, let's have Alternative D. Let's
22 run it right through Rapid.

1 (Applause)

2 MR. McPHERSON: I believe in
3 putting my money where my mouth is. I live
4 in Sturgis. I live two houses from one of
5 the grade crossings there. If I'm willing to
6 propose Alternative D, then I suppose the
7 folks in Rapid ought to accept Alternative D.
8 That takes the pressure off the Native
9 Americans. That takes the pressure off the
10 farmers and ranchers in the southwest.

11 I will leave you with this happy
12 thought. I have ridden the train over
13 Maria's Pass on the way to Witch Park. The
14 Burlington Northern, they run freight trains
15 there all the time. I've ridden that as a
16 passenger, of course. Whoever it was who
17 pulled the one percent maximum grade
18 elevation was probably one of those folks who
19 wrote the document. The Burlington Northern
20 does this all the time. Yeah. They have
21 helper engines; but my guess is DM&E could
22 also have helper engines.

1 MS. NIXON: Okay. I'm sorry. I
2 know the court reporter keeps looking over at
3 me because, I mean, I do want you to be
4 aware, it's fine to do applause at the end.
5 But when the applause is happening while the
6 speaker is speaking, she is not catching both
7 the speaker and the applause. So that's the
8 first thing.

9 The second thing, it's probably fun
10 for the speaker, but you are taking some of
11 their time, as well. Rand Williams. Okay.
12 Rand is not here. Glenda Hall.

13 MS. HALL: Yeah. I'm from
14 Piedmont. And --

15 MS. NIXON: Glenda, you need to
16 come a lot closer to the microphone.

17 MS. HALL: Okay. I'm from
18 Piedmont, so we've already had this fight
19 that you folks are going through. I support
20 you, because we didn't want it where we were,
21 and I don't blame you for not wanting it
22 where you were. I don't know if the Surface

1 Transportation Board has become aware through
2 this evening, but integrity has been a
3 recurring theme all the way through this.
4 Kevin Schieffer, as a representative of DM&E,
5 has not exhibited that quality, and that's
6 why you're seeing all of this. Nobody feels
7 like they can trust him, and they have
8 absolutely no reason to.

9 I guess that would be my biggest
10 reason to ask you, first of all, at the very
11 minimum, to extend the comment period. But
12 better yet, don't build. We don't need it.
13 It's not good for South Dakota. South Dakota
14 is nothing but a corridor for them to bag
15 money, dragging their dirty coal through
16 here. Thank you.

17 MS. NIXON: Nancy Hilding.

18 MS. HILDING: Hi. I'm Nancy
19 Hilding. I'm from Black Hawk, and I'm
20 speaking on behalf of myself alone. My first
21 comment would be to the Army Corps of
22 Engineers. I do not understand how the

1 issuing of 404 Permits is not a connected
2 action. As a connected action, it needs to
3 be included within DEIS, the body of DEIS.
4 It cannot be segregated out, put into volumes
5 with minimal access at the libraries.

6 It's a connected action under the
7 CQ regs. It should be part of DEIS. DEIS
8 needs to be reissued in a supplemental form
9 with the material concerning the 404 Permits
10 included and received by all persons who have
11 received the DEIS to allow them to comment on
12 it. It's completely inappropriate. It's
13 also, in my opinion, illegal. It provides a
14 good cause for litigation.

15 I think that when you guys started
16 out that -- I don't think maybe the STB has
17 ever handled a project of this size. When
18 you started out, you didn't realize that you
19 had cooperating agencies. You had to reissue
20 your scoping period with your cooperating
21 agencies included.

22 I think -- I have commented on your

1 procedural schedule when you set up this
2 separate administrative proceeding where you
3 rule on the transportation merits. That is
4 also, and I have said repeatedly, submitted
5 is illegal. What you would be creating is a
6 rationalization of a decision already made
7 under NEPA, under the CQ regs, the
8 socioeconomic impacts are to be considered.
9 When you make a decision on socioeconomic
10 decisions outside the completion of the DEIS
11 process, it's a violation of the CQ regs.

12 That the DEIS must include
13 socioeconomic impacts that must be fully
14 considered within the document. I hope that
15 it is. I don't see how you can have
16 administrative proceedings that goes on that
17 makes a conditional approval if that has any
18 meaning, then that's a violation of the CQ
19 regs.

20 I think requiring ten copies for
21 filing of comments over five pages is
22 inappropriate. I think that's not consistent

1 with the spirit of the CQ regs to maximize
2 public participation. I hope you will change
3 that. I hope you will consider making
4 comments available on the Internet. I
5 believe the Forest Service and other agencies
6 have done this. They get a lot more
7 comments, but they have a lot less filing
8 headache.

9 That may address some of your
10 concerns with your ten copies of everything.
11 I know that the Forest Service, when they get
12 huge comments, which you may get on this, you
13 get ten copies of everything and you may be
14 buried in paper.

15 Okay. Real quick. I'm very
16 concerned about the impacts on the Cheyenne
17 River, which is very special in Wyoming. You
18 want to go through it. I'm very concerned
19 about the splitting of the grasslands. That
20 the heritage of wild areas is very important,
21 particularly in a recreation state like South
22 Dakota.

1 The great, great human species is
2 going to exist for millenniums, and so the
3 fastest, speediest and most cost-effective
4 development of coal or whatever the great,
5 great, great, great, great grandchildren are
6 going to use. So actually, a high cost of
7 coal enhances energy conservation which
8 enhances having coal for the great, great,
9 great grandchildren. Thank you.

10 MS. NIXON: Thank you. Frank King.
11 Is Frank here? Sylvia Lambert.

12 MS. LAMBERT: My name is Sylvia
13 Lambert. I want to get the legal part out of
14 the way. I reserve the right to make future
15 comments. We deserve to be told the truth.
16 Deceit can't be good for any society.

17 MS. NIXON: Sylvia, you need to
18 come closer to the microphone.

19 MS. LAMBERT: Is it on?

20 MS. NIXON: Yeah, it's on.

21 MS. LAMBERT: We deserve to be told
22 the truth. Deceit can't be good for any

1 society. I understand that there's only
2 about 10 to 13 years of coal available. I'm
3 not sure about the details, but if that's
4 true, then the coal mine will be closing just
5 like Homestake, and not too long from now.
6 Someone else mentioned about the 21st
7 Century, going into the 21st Century with all
8 of this. I believe that wind energy is the
9 way to go into the 21st Century.

10 I don't know where it states in
11 your document what you're going to be
12 shipping. I understand that it's basically
13 coal and coal only. So my husband and some
14 of the farmers have been told, well, there
15 may be extra grain trains if there's time and
16 space. This is primarily for coal.

17 Someone also mentioned how
18 wonderful it would be for the tourist
19 industry. Now the coal goes from west to
20 east, so I suppose the tourists will be
21 coming from east to west, which means by the
22 time they get here, their faces will be black

1 with coal dust. How will we send them back?

2 In the Executive Summary, it states
3 that there will -- it states that there will
4 be a hazardous material emergency response
5 training plan. If you've read the Executive
6 Summary up there, a hazardous material
7 emergency response training plan. Hazardous
8 material from the east coming west perhaps?

9 MS. NIXON: One minute.

10 MS. LAMBERT: A comment was made
11 about for improving -- we need to improve and
12 upgrade the present one. How come DM&E
13 has -- is not using the profits that they've
14 been making over these years to keep up their
15 railroad? If I own a house, I have to keep
16 it up. I have to earn money. I have to do
17 it. The DM&E should be responsible for this
18 over all of these years.

19 Also, don't ignore the
20 intergenerational injustice and the
21 indigenous injustice. We've been given 90
22 days to read that. You expect us to read

1 this outside of our work hours and understand
2 it in 90 days, whereas you've had numerous
3 people who are paid full time for at least
4 two years to create this deceptive, confusing
5 document. Educators would probably give it a
6 grade of a D minus or F. Review the document
7 and then give us 180 more days.

8 MS. NIXON: Robert Wordeman.

9 MR. WORDEMAN: You don't have to
10 set the timer. I won't be long. I cross the
11 tracks every day, and they are not kept up as
12 they are. If the DM&E's rail is outdated,
13 it's their own fault because they haven't
14 kept that one up. What is going to make them
15 keep their new one up?

16 I've listened to several
17 businessmen stand up here and tell you what
18 was economically good for this state. As a
19 young rancher, I consider myself a
20 businessman.

21 Now, when I sit and listen to these
22 comments, I've changed my mind. I've never

1 made any money off the hardship of someone
2 else. Thank you.

3 MS. NIXON: I'm going to go back
4 now and just do a few of the names of folks
5 that weren't here, just in case they were in
6 the restroom or something.

7 Okay. Joe Givens. Ned Westfall.
8 Don Quinn. Rod Sudbeck. Mark Kirkeby. Jim
9 Rarick. Jim Lampley. Richard Krull. Paul
10 Schuchardt. Louie Dubray. Ed Whittle.
11 Madonna Thunderhawk. Harold Frazier. Victor
12 Harold. Cecelia Two Bulls. Rand Williams.
13 Okay.

14 Okay. I think that concludes the
15 formal commenting portion of this evening.
16 What we would really like folks to do is just
17 submit -- if you have further comments, to
18 formally submit them in writing. The current
19 deadline is January 5th.

20 We really want to express our
21 appreciation for you coming out tonight; and
22 certainly for those of you, about a third of

1 you that have stayed for the entire meeting
2 and listened to everyone. We really urge you
3 to submit your comments. Again, thank you
4 very much. Have a nice evening and a safe
5 drive home.

6 (Whereupon, at 10:25 p.m., the
7 PROCEEDINGS were adjourned.)

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